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# In the Privy Council.

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 INSTITUTE OF ADVANCED  
 LEGAL STUDIES

**ON APPEAL**  
 FROM THE SUPREME COURT OF FIJI  
 (Criminal Jurisdiction.)

15231

BETWEEN

EMMANUEL JOSEPH

*Appellant*

AND

THE KING

*Respondent.*

## RECORD OF PROCEEDINGS

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# In the Privy Council.

**ON APPEAL**  
*FROM THE SUPREME COURT OF FIJI.*  
*(Criminal Jurisdiction.)*

BETWEEN

EMMANUEL JOSEPH

*Appellant*

AND

THE KING

*Respondent.*

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10 **RECORD OF PROCEEDINGS**

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No. 1.

INFORMATION by the Attorney-General.

No. 41 of 1945.

IN THE SUPREME COURT OF FIJI.

At the Sessions holden at Lautoka on the 31st day of July, 1945.

THE KING

V.

EMMANUEL JOSEPH  
MANDATT  
RAMPRATAP.

*In the  
Supreme  
Court  
of Fiji.*

No. 1.  
Information by the  
Attorney-  
General,  
13th June  
1945.

20

INFORMATION BY THE ATTORNEY-GENERAL.

EMMANUEL JOSEPH, MANDATT and RAMPRATAP are charged with the following offence :—

*Statement of Offence :*

Murder, contrary to section 220 of the Penal Code.

*Particulars of Offence :*

Emmanuel Joseph, Mandatt and Rampratap on the 4th day of February, 1945, at Mulomulo in the Western District murdered Ravindra.

Dated the 13th day of June, 1945.

30

(Sgd.) A. G. FORBES,

Acting Attorney-General.

*In the  
Supreme  
Court of  
Fiji.*

No. 2.

APPLICATION on behalf of Emmanuel Joseph.

IN THE SUPREME COURT OF FIJI.

Criminal Jurisdiction.

No. 41 of 1945.

No. 2.  
Application  
on behalf of  
Emmanuel  
Joseph,  
3rd  
September  
1945.

CIRCUIT COURT, LAUTOKA.

Criminal Sessions.

Monday, 3rd September, 1946.

Before His Honour Sir CLAUD RAMSAY WILMOT SETON, M.C.,  
Chief Justice.

10

THE KING

V.

EMMANUEL JOSEPH  
MANDATT and  
RAMPRATAP

MURDER.

Mr. E. M. PRITCHARD (Crown Counsel) for Crown.  
Mr. N. S. CHALMERS for Emmanuel Joseph.  
Mr. P. RICE (with him Mr. K. STUART) for Mandatt.  
Mr. TULSI RAM SHARMA for Rampratap.

The first application made by Mr. Chalmers is omitted by consent. 20

*Chalmers* : My second application is this. In view of the fact that most of this evidence is not evidence against the accused Emmanuel Joseph, and the fact that assessors very often do not separate what is hearsay, notwithstanding the directions of the Court, inadmissible evidence against an accused person, evidence of statements and so forth, may be to their mind relevant or may in some way influence their mind. I would ask Your Honour, in view of the facts I have already outlined, to order a separate trial of the accused Emmanuel Joseph in this case, under sec. 260, sub-sec. 4 of the Criminal Procedure Code. I submit that his trial in conjunction with the other accused would seriously prejudice him. 30  
Seriously prejudice as well as embarrass his defence. The reason is this. If Your Honour has seen the depositions, much of the evidence has no relation to him at all. Statements made by the accused are inadmissible as against him, and I cannot see that there is any evidence of any of the witnesses, except perhaps the witness as to the production of his own statements, to in any way connect the accused with this alleged offence. All this evidence would both prejudice and embarrass him.

*Crown Counsel* : If Your Honour pleases, the question of separate trial is, of course, entirely one for Your Honour's discretion. The general principle seems to be that where part of the defence of one of the co-accused 40 is an attack upon another it is a case in which separate trials might be granted. I am not going to urge this matter at all. The only submission I do make is this : that if separate trials are granted in this case, then the accused Emmanuel Joseph should be tried last.

*The Court* : I want a little more assistance on this subject. Separate trials are not very often ordered, as far as I know, although circumstances very similar to the present frequently occur. Where is the law on the subject? Remember that celebrated case of Bywaters and Thomson. That was a case in which I think an application was made for separate trial but it was not granted.

*In the  
Supreme  
Court of  
Fiji.*

No. 2.

Application  
on behalf of  
Emmanuel  
Joseph,  
3rd  
September  
1945,  
*continued.*

*Crown Counsel* : There is a quite recent authority—in fact I think I have the books very handy—to the effect that the principal consideration is to get at the truth and that there may be circumstances in which that will  
10 best be served by a joint trial. I think Bywaters and Thomson is an example. I draw attention, if Your Honour pleases, to a case decided in 1940—Barnes and Richards—quoted in Criminal Appeal Reports, Vol. 27, p. 154, at p. 165. I quote this passage from the judgment : “ Much stress was laid by Mr. Wood upon a passage in a case in this Court, . . . cannot be supported for the reason that separate trials were not had.” That case points out really that it is not for the Judge at the trial to be asked to exercise, as they call it here, “ a prophetic power ” and decide in advance what the various co-accused are going to say about each other. And it  
20 seems to indicate, in my submission, that where a co-accused makes it his defence to completely excuse himself and put the blame on to somebody else that is a case for separate trial ; but the mere fact that in the course of his defence he makes observations which do inculcate a co-prisoner that is not necessarily grounds for separate trial.

*The Court* : I imagine this is the most recent and authoritative case on this subject. Have you seen it ?

*Chalmers* : Yes, I have seen it.

*The Court* : “ Separate trials should be ordered where an essential part of one prisoner’s defence amounts to an attack on a co-prisoner.” Can you bring yourself within that ? I rather doubt whether you can.

30 *Chalmers* : I submit the only evidence against the accused Emmanuel Joseph is the evidence of those two witnesses, one of two of the accused, who say that Emmanuel Joseph was responsible for the whole of the shooting and he organized it and he was responsible for it.

*The Court* : Yes, but after all your client says the same. He attacks them too.

*Chalmers* : Not that I know of.

*The Court* : You will find that he was down on the other two,

40 *Chalmers* : I don’t think he ever mentions them as having any connexion with it at all. He has denied any knowledge of the shooting at all and ever meeting or seeing these people.

*The Court* : What about the statement that one of them woke him up at 1 o’clock in the morning ?

*Chalmers* : That wasn’t an accused person.

*The Court* : Wasn’t that your client ?

*Chalmers* : My client, yes, but one of the other accused called Rampratap who doesn’t appear in the case at all.

*In the  
Supreme  
Court of  
Fiji.*

*The Court* : Doesn't he say one of the other accused told him what happened—Mandatt ?

*Chalmers* : I haven't come across that at all.

No. 2.  
Application  
on behalf of  
Emmanuel  
Joseph,  
3rd  
September  
1945,  
*continued.*

*The Court* : That Mandatt told him who had done it. I don't know quite what this means here, but it seems to me that unless you can show that one prisoner's defence amounts to an attack on your client—

*Chalmers* : I don't know what could be said of the other accused's statements.

*The Court* : In point of fact, judging by the statements of the other accused, they have tacitly admitted that they were in this affair and they say that your client was the leading member of the party. 10

*Chalmers* : We had that case recently in this Court where one of the witnesses, a motor driver, did the same thing. He got off, and he put the whole of the blame on the accused.

*The Court* : That driver was a witness for the prosecution ?

*Chalmers* : Yes.

*The Court* : Well, that is rather a different thing. I don't think this is a case for separate trial. I think, as Mr. Prichard says, the administration of justice is the first consideration in questions of this kind, and that does really mean that the Court should be able to ascertain the truth, and in the majority of cases such as these a joint trial is the best way of ascertaining the truth. 20

Information read.

Interpreter, C. A. JOHN, Sworn.

No. 3.  
Plea of  
Accused,  
3rd  
September  
1945.

No. 3.  
**PLEA of Accused.**

All Accused plead Not Guilty.

Assessors : KNOX McLEOD GRAHAME  
JOHN CUTHBERT POTTS  
DAVID PETRIE RAGG  
FRANK EDWARD WOOD  
JOHN SAMUEL RUSHTON

} Sworn.

30

Crown Counsel opens : (Omitted by consent.)

## PROSECUTION EVIDENCE.

No. 4.

EVIDENCE of Chotabhai Patel—P.W.1.

CHOTABHAI PATEL, Sworn.

1. I think you live at Mulomulo ?—Yes.
2. And you have a store there ?—Yes.
3. And I think you have kept that store for a number of years ?—  
Over five years now.
4. You have a family ?—Yes.
- 10 5. How many children ?—I had seven. One was killed. Six left.
6. Did those children and your wife all live in the store ?—Yes.
7. Did anyone else live in the store ?—A tailor by the name of Yusuf.
8. Now you have mentioned that one of your children was killed ?—  
Yes.
9. How old was that child at the time ?—Eight months.
10. Name ?—Ravindra.
11. And I think it was a boy ?—Yes.
12. Was he the youngest of your children ?—The youngest of all my  
children.
- 20 13. At that time how old was the eldest ?—12 years.
14. How was this boy killed ?—By a bullet.
15. Were you there when that happened ?—I was at home.
16. Can you remember the date ?—Saturday, the 3rd. The night  
of the 3rd.
17. It was the night of the Saturday ?—Yes.
- To Court* : 18. 3rd of what ?—3rd February of this year.
- To C.C.* : 19. That night did you all sleep in the building ?—Yes.
20. Whereabouts was Yusuf, the tailor ?—In the main store—the  
store itself.
- 30 21. And where were the rest of you sleeping ?—In the room immedi-  
ately behind the store.
22. That is, yourself, your wife and seven children ?—Yes.
23. Were there any raised beds there at all ?—No, no raised bed  
at all.
24. The whole lot of you were sleeping on the floor ?—Yes.
25. What time did you go to bed ?—Between nine and ten.
26. Do you know whether you were asleep when something happened,  
or were you awake then ?—I had gone off to sleep.
27. What was the very first thing that you noticed ?—The report  
40 of a gun woke me up.
28. What happened ?—Immediately the firing was stopped I got  
up. I left the bed where I was sleeping on the floor. Then I noticed the  
child bleeding and dead.
29. Now about this firing. Was it just one shot or more than one ?—  
Five shots were fired.
30. Did you get any idea from what direction they were fired ?—  
It appeared to me to come from the direction of the school. There is a  
mango tree in between ; from that direction.
31. And could you tell how far away ?—No.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 4.  
Evidence of  
Chotabhai  
Patel,  
P.W.1,  
3rd  
September  
1945.



*In the  
Supreme  
Court of  
Fiji.*  
*Prosecution  
Evidence.*  
No. 4.  
Evidence of  
Chotabhai  
Patel,  
P.W.1,  
3rd  
September  
1945,  
*continued.*

32. What did you do when you first heard this firing?—Having heard the report of the gun I was still lying down.
33. And you didn't move until you heard all the reports, is that it?—That is so.
34. Were these shots at very long intervals, or very close together?—They were in quick succession.
35. Perhaps you could just indicate by tapping the witness stand?—(Demonstrates.) Five shots.
36. And you say you found the child was bleeding and dead?—Yes. 10
37. Was anyone else injured?—Yes, the other child older than this one, named Surekand.
38. I think he is the eldest?—Yes.
39. Where was he injured?—On one of the hands.
40. What did you do then?—I went outside the house, to Narain's house.
41. I think he is your nearest neighbour, is he?—Yes.
42. What happened then?—I woke up Narain. While I was waking up these people three more shots were fired.
43. Did you get any idea of the direction this time?—They were 20 being fired from the direction of Joseph's house.
44. You couldn't tell how far away?—No.
45. I think you asked Narain to go and report?—Yes, that is so.
46. Did Narain actually make the report to the police, or who did?—He didn't go. His own family prevented him from going. They said "There are shots being fired outside and it is risky for you to go out."
47. So what did you do then?—Then I went to Aslu's house.
48. How far from Narain's?—He is at least 40 chains away from there.
49. And did you get Aslu to make a report?—Yes. 30
50. What did you do then?—I came back to my store.
51. And did you wait for the police there?—Yes, I was waiting for the police.
52. Had you any way of fixing the time these shots were fired?—Approximately 1 a.m.
53. Is that just an estimate on your part?—I saw my clock. I have a clock in my store. When I got up I looked at it.
54. Well, did you examine the store that night?—Nothing during the night.
55. I think Superintendent Spencer came?—Yes. 40
56. And he had a number of police officers and men?—Yes.
57. Did you have a look at the store later on?—Yes.
58. What did you see?—Saw the holes made by the bullets which had been fired.
59. Where were most of them?—In the bulk store—the front portion. The bulk store had two holes in it. Two holes in the store, and where we slept there was one hole.
60. Whereabouts was that hole—on the floor, wall, roof?—In the floor.

*To Court:* 61. What do you mean—entered the wall at the level 50 of the floor, or what?—From down below. From under the floor.

*To C. C. :* 62. How high is that floor above the ground ?—Roughly about three feet.

63. And was that hole anywhere near where Ravindra had been sleeping ?—It was exactly there.

64. How many of these accused do you know ?—Two of them.

*To Court :* 65. That is to say, how many did you know before the event ?—I knew two of the accused and two others.

*To C. C. :* 66. Well, we haven't got the two others here. Which two of the accused do you know ?—The first one, Manu, and the next  
10 accused, Mandatt.

67. Do you know the first accused's full name ?—No.

68. Have you ever had any trouble with any of them ?—Yes, with the first accused, Manu.

69. Will you tell the Court how it all began ?—I had a lifting jack belonging to a motorcar, which Manu had borrowed. It was broken. The owner of the jack came and asked me for it.

*To Court :* 70. When was it broken ?—After six or seven months. Six or seven months after the first accused had borrowed it from me.

71. While it was still in his possession ?—Yes.

*To C. C. :* 72. Yes ?—Mohammed Ali, the owner of the jack asked  
20 me to return it to him. I informed him the jack was with Manu. He then went to Manu. He came back and informed me that the jack was broken. Then I told Mohammed Ali to go and collect the price of the jack from Manu. He came back and told me that Manu refused to pay him for the jack. I said, "All right, since you have given it to me I will pay you the money." And I paid him.

*To Court :* 73. How much ?—£5. At that time Manu was living in one of my thatched houses.

*To C. C. :* 74. Was he paying rent for it ?—No. Free of rent.

*To C. C. :* 75. You must have been on good terms with him then ?—Yes.  
30

76. What happened when he didn't pay for the jack ?—Then I told him "We were on good terms before but now I had to suffer for your sake and pay £5 for that jack: you had better leave my premises and go elsewhere."

77. Did he go ?—He left.

78. Can you fix the date of that at all ?—When he left ?—I don't remember the date.

79. Can you give an idea of how long it was before the shooting took place ?—Five or six months, roughly.

*To C. C. :* 80. How long had he been occupying your bure before that ?—For  
40 more than a year.

81. Now you say he left. Where did he go, do you know ?—He went away to his own house. To his parents'.

82. Whereabouts ?—In front of Lalji's store.

83. Near the rice mill ?—Yes, near the rice mill.

84. Whose is the rice mill ?—It belongs to Joseph, senior.

85. Well, you told Emmanuel Joseph he had to get out of the bure, and he went to his father and lived near the rice mill ?—Yes.

*To C. C. :* 86. Was that the end of the trouble ?—Not exactly. Then they  
50 started racing these horses near the store. The road is quite close to the store and they would be galloping the horse.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 4.  
Evidence of  
Chotabhai  
Patel,  
P.W.1,  
3rd  
September  
1945,  
*continued.*

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

*No. 4.  
Evidence of  
Chotabhai  
Patel,  
P.W.1,  
3rd  
September  
1945,  
continued.*

87. Who did the galloping?—The accused's younger brother.

88. Name?—I have forgotten his name.

89. Is there any harm in galloping horses there?—My little children were playing round about there always; they are quite small and they might get run over.

90. What did you do about that?—I went to his father—the accused's father. I explained the matter to him and requested him to inform his son not to gallop the horse near the store. A week later again he was galloping the horse near the store. Noticing my children playing outside, I went outside myself. Then I saw him coming again on horseback, galloping in the direction of the store. So, taking a stick in my hand, I went and stood there. When the horse came quite close I raised the stick up. The horse shied and the rider fell down—the accused's brother. Then in the evening of the same day the whole of the family and the first accused came up to the store—mother, father, brothers and all. Began to abuse me. One Lal Mohammed came outside and requested the Joseph family to go away from the store and to stop wrangling. That is the end of the quarrel with them. We have had nothing further. Ever since that day they would never come to my store. Previous to that occasion they were buying goods at my store. 10

91. You say that was the end of the quarrel and they went away?—Yes. That was the last quarrel.

92. Were you on friendly terms after that quarrel?—No. They didn't come back to the store at all.

93. They didn't do anything else that you knew of?—The matter before the court now. Firing the gun.

94. And the quarrel was only about the jack and the horse-riding?—Nothing apart from those two incidents.

95. Roughly how long before the shooting was it that the horse-riding happened?—Roughly about one or two months. 30

96. Now you say you have never had any trouble with Mandatt?—No.

97. Where does he live?—Close by. In Mulomulo.

98. Do you know what sort of terms he is on with Manu?—I don't know on what terms they are.

99. And before that occasion you didn't know Rampratap at all?—I didn't know Rampratap before.

100. Do you know a man called Hanif?—Yes.

101. Where does he live?—I didn't know Hanif before this incident—the quarrel with Joseph family—but since that quarrel I know that Hanif lives with the Joseph family. 40

102. You mean since the quarrel about the jack?—Yes. I knew before the incident with Joseph that Hanif was living with the Joseph family.

103. You knew he was living there then?—Yes.

104. Do you know a man called Madre?—Yes. He was living there too.

*To Court:* 105. Living where?—At Solovi.

*To C.C.:* 106. How did you come to know him?—I was at a store in Solovi and this man was buying goods from me for about ten years or so. 50

*To Court* : 107. How far is Solovi from Mulomulo ?—They are adjoining settlements.

*To C.C.* : 108. Do you know what terms he is on with Manu's family ?—They are on good terms.

*Xxd.*

*Chalmers.* 109. Dealing with the question of this jack. Isn't the question not that he wouldn't pay for the damage to the jack but he said that the jack was an old jack and it was broken before it was lent to him and that he was prepared to pay reasonable compensation but he wasn't prepared to pay £5 ?—There was no such conversation.

10 110. Why did he refuse to pay ?—Can you give us any reason ?—I can't explain what reason he had for saying he would not pay.

111. Well, if he hadn't good grounds for refusing, why wasn't action taken against him to recover the damage to the jack ?—For the sake of £5 I thought it was too much trouble going to Court for a matter like that, and as I am a family man with children I avoided trouble by paying myself.

112. As a matter of fact it was a very old jack ?—No, one that could be used.

20 113. Was this discussion about the jack with Joseph, or with Joseph's father ?—With Manu himself.

114. And later on you say you asked him to vacate the bure that you had lent him ?—Yes.

115. And when he vacated it did he vacate it on good terms ?—Not on pleasant terms, because I had to pay £5 compensation on his behalf and I wasn't very happy about it and I told him to go away.

116. Now this riding of the horses : was it not a fact that other people were training horses for races at that time ?—No. Not on that road. Further away from that place.

30 117. But they were practising racing ?—Not in front of the store. It was another place where they were practising for these races.

118. But not far from there ?—Quite a distance. Roughly about a mile or so. In Solovi settlement. The next settlement.

119. And I think you spoke to Joseph senior about it, didn't you ?—Yes.

120. And after this incident I think they were upset at this boy being thrown off the horse ?—Yes, they were upset.

40 121. And I think after that you spoke to them and told them about the danger to your children and it stopped, didn't it ?—No. This is how it happened. I went and told them about it—that it was dangerous to my children—but they kept on galloping again after my warning the father.

122. But after you say you had had the trouble and the boy had fallen off the horse as a result of your frightening the horse—after that it ceased, did it not ?—Yes, it ceased after that.

123. And at that particular time wasn't the accused Joseph running a taxi ?—Yes.

*The Court* : 124. At what time was this ?

*Chalmers* : 125. At the time of the horse trouble.

50 126. And he was away most of the time, wasn't he ?—Yes.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 4.  
Evidence of  
Chotabhai  
Patel,  
P.W.1,  
3rd  
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1945,  
*continued.*  
Cross-  
examina-  
tion.

- In the Supreme Court of Fiji.*
- Prosecution Evidence.*
- No. 4.  
Evidence of Chotabhai Patel, P.W.1, 3rd September 1945, continued.
- Cross-examination.
127. Can you give us any fairly accurate idea as to how long before this shooting this trouble ceased in connexion with the horse?—I am unable to tell you. I forget now as to how long before the shooting they ceased galloping horses.
128. Except for these two incidents that you have described, there was no trouble at all between you?—Nothing at all.
129. Round about this time, or just shortly before this shooting, did anybody threaten to shoot you, other than the accused?—Hanif had threatened me.
130. Do you know a man by the name of Rampersad?—Rampersad did not threaten me. I know Rampersad. 10
131. A little bit before this, did you have trouble with Rampersad in which, in the presence of a number of people, he threatened to shoot you?—No.
- Xxd.*
- Rice* : 132. The building marked 10 on the plan is your store?—Yes.
133. And down to the west of that you see four mango trees marked?—Yes.
134. They represent the mango trees you spoke about in your 20 evidence?—Yes.
135. Now the country between your store and the mango trees represents a fairly steep downhill—in short, the trees are on a much lower level than the store?—That is quite correct.
136. And you have already told us that the floor of your store is raised, I think you said about 3 feet above the ground, is that right?—Yes.
137. And between the ground and the floor of your store it is quite open—all that is holding it up is piles—there is no outside wall?—That is so. 30
138. Now will you tell us about your store. First of all, how many rooms are there in it?—Four rooms and one kitchen.
139. And is the kitchen attached to the four rooms or detached?—Detached from the main building.
140. You will notice on the plan a tiny bure to the north of your store; is that the kitchen you are talking about?—No. The kitchen is at the rear of No. 10; immediately at the back.
141. You mean it is to the east of the building—is that right?
- To Court* : 142. Is it the opposite side to the mango trees?—South of it. Right-hand side. 40
- To Rice* : 143. The detached kitchen is not shown on the plan at all?—No.
144. How far from the main building would that kitchen be?—About four chains, roughly.
- To Court* : 145. From where?—From the mango trees.
- To Rice* : 146. I asked from the kitchen?—Eight or ten feet.
147. I would like you to tell me, starting from the northern side—that is to say, the side that faces Narain's house—the first room on that side—what room is that?—The main building has a front verandah and this front verandah is closed. 50

148. That front verandah faces which way?—The front verandah faces Narain's house.

149. Well, we have first got the front verandah. Then you go off it—No. Half of it is built in—half of it is my bulk store.

150. The left-hand side or the right-hand side?—As you face the store the right-hand side of the verandah is closed and made into a bulk store. The rest is open verandah.

151. Well, then you go past the bulk store and past the open verandah, and what do you come to then?—As soon as you enter inside is the main store building, where the goods are kept.

152. And where the selling and buying is done?—Yes. And just beside that is another room.

153. Beside the store part?—Yes.

154. What is the purpose of that room?—Just another bulk store. We keep goods inside there.

155. Is that second bulk store on the eastern or western side?—It is immediately behind the bulk store outside. The two rooms one behind the other.

156. And having passed beyond what might be called the second bulk store room, what do you come to then?—Then the closed verandah at the end of the building.

157. And that is the last room?—Yes.

158. Except, of course, for the detached kitchen?—Yes.

159. Which one of those was your family sleeping in?—The very last, the closed verandah.

160. There was one other person, I think, sleeping in the building that evening—the man Yusuf?—Yes.

161. Do you mean in that part of the store where the buying and selling goes on?—Yes.

162. Now these bullet holes you speak about. One of them unfortunately came up, as you told us, through the floor of the room in which your family was sleeping—that is to say, the room on the extreme south?—That is so.

163. How many bullet holes did you see altogether?—From the outside you can see four quite clearly.

164. Four including the one that came up through the floor or four excluding that one?—Excluding that one.

165. That is to say, you can see when you look for them five holes altogether?—Yes.

166. Well, we know about the one that came through the floor. Exactly what parts of the building were the other four?—Outside in the tin.

167. That is to say, your outer wall is made of corrugated iron, isn't it?—Yes, the walls are corrugated iron.

168. All of those four bullet holes show on the outside corrugated iron?—Yes.

169. Take them one by one. Take any one you like. Exactly what part of the wall is it in relation to the rooms you have described to me?—Two straight in line with the main store building where the buying and selling is done. And on the main bulk store which is situated on the verandah; two on that.

170. That is to say, the first bulk store you described?—Yes.

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No. 4.  
Evidence of  
Chotabhai  
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Evidence  
of  
Chotabhai  
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tion.

171. One or two there?—Two.

172. Now the two that hit in line with the room where the buying and selling is done?—Two in that.

173. How high up the outside corrugated iron wall did they strike?

*The Court* : Have we had which wall they hit?

*To Rice* : 174. The wall you are talking about—that is the west wall?  
—Yes.

175. They all hit that wall?—Yes.

176. Now the two that hit the main store building.

11.45 Adjourned.

10

11.55 Resumed.

177. Now before the adjournment you said all four of the bullets hit the western wall of the building, two of them the main store part and two of them the bulk store part?—Yes.

178. Now I should like to know something about the height. The two of them that hit the main store building—how high up from the ground were they?—I didn't measure it, so I don't know.

179. High up or low down, or what?—Outside, it would be above a person's head.

180. Above a man's head from the ground?—Yes. That is from 20 outside.

181. And one in fact was almost up to the top of the wall—up to the eaves, you might say?—Correct.

182. And the two that hit the first bulk store wall: they too were each above a person's head, were they?—Yes.

183. Now I think you told us in your evidence in chief that you had been in business in that store for about five years, wasn't it?—Yes.

184. And in that little settlement there, as we know, there is another store which is shown on the map here, run by a man called Lalji?—Yes.

185. Are there any other stores there except yours and Lalji's?— 30  
Further away, at Mulomulo.

186. How far would that store be from yours?—Roughly over a mile.

187. I don't want to know how much you make, or anything like that, but have you got a reasonably good business there?—A fairly good business.

188. And Lalji?—He has a good business.

189. The settlement in which you and Lalji serve customers is not a very big one, is it, so far as population is concerned?—In the settlement where I live there is only one house in front of me, but there are several settlements adjoining each other. 40

190. What I meant by my question was the range or the area from which you draw your customers. There wouldn't be a terrific lot of people?—Quite a number of people.

191. Let us put it this way. How long has Lalji been in business there?—13 years.

192. Much longer than you. And he too has got a good business, as you have said?—Yes.

193. If a new man were to start up a store there he would find it difficult to compete, wouldn't he, against you and Lalji?—Leave it to

luck. If he is lucky enough he would be able to draw enough customers to make a living.

194. Do you think he would do well against you, or not?—It is fate. If he is fortunate he would probably compete with both of us and do well.

195. Do you think he would be fortunate enough?—He would be able to carry on.

196. To come right down to tin tacks, suppose that the father of the accused Emmanuel Joseph had opened out in business there as a store-keeper, how do you think he would have got on against you and Lalji?—I couldn't say whether he can or whether he cannot.

197. Would you have been afraid of the competition?—No, I wouldn't.

198. Now did you know that either the accused Joseph or one of his family wanted to start a store there shortly before this shooting?—I didn't know anything about it.

*Xxd.*

*Sharma* : 199. You have already told my learned friend, the prosecutor, that before the shooting incident you didn't know the third accused Rampratap?—I didn't know him.

200. Had you ever seen him anywhere before that incident?—Never.

201. Now there are only three accused in this case, as you have seen?—Yes.

202. When you were asked by my learned friend whether you knew any of the accused your answer was "I knew two of the accused and two others"?—Yes.

203. Now what did you mean?—Well, there was Hanif and Madre; two of them were together in company with these and I don't know why they are not here.

204. What do you mean by Hanif and Madre being in company with these?—During those days when I had this quarrel with the family as I have explained, before this incident of the shooting, I have always seen Hanif and Madre going past my store in company. They would go in company during the nights as well.

205. When you say "these" in connection with the accused who do you mean?—Manu, Hanif, Madre and Rampersad. That is the four.

206. And would this be the same Madre who is a Crown witness in this case?—The same one.

207. And it would be the same Hanif that is a Crown witness?—That is the Hanif I mean.

208. What was the relationship like? Did they appear to be good friends and collaborators or did they seem to be strangers to each other?—They appeared to be very close friends; moving together always. I would see them during the nights together.

*To Court* : 209. These four persons he has mentioned?—Yes.

*To Sharma* : 210. We have already been told, I think, where Manu lives?—Yes.

211. And we have also been told, I think, where Hanif lives. He lives with Manu, does he?—Yes.

212. Where does this man Madre live?—He lives at Solovi. His house is quite close to theirs.

*In the  
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No. 4.  
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1945,  
*continued.*  
Cross-  
examina-  
tion.  
Re-  
examina-  
tion.

213. How close?—About 60 or 70 chains away from my store.  
214. And the third accused, Rampratap; do you know where he lives?  
—I didn't know him before but now I have heard he lives at Tunalia.  
215. Anyhow he doesn't live anywhere near the locality where the  
other four you have mentioned live?—No. He doesn't live anywhere  
near those four.

216. And this Tunalia you have mentioned; it is a settlement about  
15 or 16 miles from the settlement in which you live, isn't it?—Yes.

*Re-xd.*

217. Mr. Chalmers asked you if you had ever been threatened by 10  
anyone else?—Yes.

218. And you said that Hanif had threatened you?—Yes.

219. What did he say?—"Some day I will shoot you."

220. Whereabouts was that?—At Mulomulo, on the road near the  
store. He goes along that road near the store.

221. Was he alone at the time?—He was alone at the time.

222. And how long before this shooting did he make that threat?—  
About one month or half a month.

*To Court:* 223. Is there any enmity between you and Hanif?—I had  
my trouble with Manu and he would side with Manu. 20

*To Assessors:*

*Potts:* 224. Is the Rampersad mentioned the same as Mandatt?  
—No, it is his brother.

*Grahame:* 225. The distance between Mulomulo and Tunalia, not  
using the government road, as the crow flies?—I don't know as the crow  
flies how many miles it would be.

No. 5.  
Evidence of  
Yusuf,  
P.W.2,  
3rd  
September  
1945.

No. 5.  
EVIDENCE of Yusuf—P.W.2.

YUSUF. Sworn.

(F/N Mohammed).

226. I think you are a tailor?—Yes.

227. And you live in Chotabhai Patel's store?—Yes, when this  
incident occurred I was then living there, but to-day I am at Ba.

228. And on the occasion of this incident where were you?—At that  
time I was living there, at Mulomulo.

229. And the incident was at night?—Yes.

230. Where were you at the time?—Inside the store.

231. I think there are four rooms altogether in the store?—Yes.

232. Which room were you in?—The main store—the store itself—  
where the buying and selling is done. 40

233. Had you gone to sleep?—Yes.

234. Did you have a raised bed or did you sleep on the floor?—I slept  
on the floor.

235. Was there any light in the store?—No.

236. What was the very first you knew of it?—About three shots  
were fired when I woke up.

237. Have you any idea what time it was ?—One o'clock.

238. Is that an estimate or do you know for certain ?—I saw it on the clock.

239. Did you have any idea where these three shots were fired from ?—Yes, on the side of the store, where the mango trees are—coming from that direction.

240. And the three shots that you heard : were there long intervals between them or were they close together ?—Not at long intervals and not at short intervals.

10 241. Perhaps the best thing you could do would be to indicate the intervals ? (Indicates on witness box).

242. What happened then ?—I went into the back room and noticed that the boy was dead.

243. Yes ?—Then the owner of the store went outside. After the storekeeper went out I remained at the store.

244. And you waited there until the police came ?—Yes.

245. Now you heard these three shots fired ?—Yes.

246. And as you say you went into the back room and the storekeeper went outside ?—Yes.

20 247. Did you hear anything at all after that ?—I heard three more shots.

248. You have a watch there, haven't you ?—Yes.

249. And you had it at the time ?—Yes.

250. Can you say how long it was after the first shots were fired that you heard the second lot ?—At that time our minds were all perturbed and we were all upset and frightened, and so I didn't make a note of how many minutes afterwards the shots were fired.

251. I think the Court understands that ; but could you say how long it seemed to you at the time ?—Ten to fifteen minutes, I would say.

30 252. Did you have a look round the store in the morning ?—Yes.

253. Did you find something that looked like a bullet ?—Yes.

254. Could you say just where it was that you found it ?—About two feet away from the wall in that same room where the child was killed. It was lying on the floor.

255. Do you know where North, South, East and West are ?—Yes.

256. Which way did the store face ?—The points of the compass I don't know, neither in my own language nor in Hindi.

257. Well at one end of the store is the kitchen ?—Yes.

258. Now you know the direction that kitchen is in ?—Yes.

40 259. With reference to that direction, could you say which wall the bullet was near ?—Yes. As soon as you leave the kitchen it would be on the left-hand side. Coming out of the kitchen, this wall would be on the left-hand side.

260. From which direction did you say you thought you heard the shots coming ?—The mango trees.

261. Is that the wall you mean (indicates on plan) ?—Yes, that is the wall I mean. (West wall.) There is the inner wall too, and the outer wall. From the corner of the inner wall and the outer wall it is about two feet.

50 262. Did you hand this bullet over to Superintendent Spencer ?—Yes.

263. Did you show him the spot where you found it ?—Yes.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

*No. 5.  
Evidence of  
Yusuf,  
P.W.2,  
3rd  
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continued.*

*In the  
Supreme  
Court of  
Fiji.*

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No. 5.

*Evidence of  
Yusuf,  
P.W.2,*

*3rd  
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continued.*

*Exhibit E.*

264. Was the bullet still there when you showed him, or did you show him the place where the bullet was?—After picking the bullet up I called the Inspector and said “ I have found it here ” and showed him the place where it was lying.

265. And it was inside the room in which Chotabhai Patel slept?—  
Yes.

266. Did you see whether this child Ravindra was living when you went in?—I actually couldn't say whether he was living. I only saw him being picked up and put in another place. It was then I noticed.

267. Now this bullet that you handed to Supt. Spencer : was it one 10  
like this?—Yes.

268. Can you say whether that is the one?—The very one I gave to the Superintendent.

269. Would you have a look at these three men. Do you know any of them?—I know two of them, the first and the second—Manu and Mandatt.

270. And the third one is a stranger to you?—I have never seen him before and I don't know him.

*To Court :* 271. You saw him at the preliminary inquiry, didn't you? —Yes, I had seen him there. 20

272. But before the shooting you only knew Manu and Mandatt?—  
Yes.

*To C.C. :* 273. Do you know on what sort of terms they were with Chotabhai Patel?—Before they were on good terms, and after a quarrel they had they stopped visiting.

*To Court :* 274. Is this about both of the two accused he knows or only one?—Not Mandatt. Only Manu.

*To C.C. :* 275. Do you know what this quarrel was about?—About a jack.

276. Was this jack the only trouble you knew about?—There may 30  
have been other quarrels but I wasn't always present at the store. I would be away from the store on certain occasions so I don't know about the others.

277. How long before the night of the shooting was this jack quarrel? —I don't know for certain ; about two months or one month. I may be wrong. I am not quite certain about it.

278. Do you know where Manu was living at the time of that quarrel? —In Chotabhai Patel's bure ; and then there was this wrangling about this jack and he went away to live with his parents.

279. Did you ever see him at the store after that?—No. 40

280. Did his family deal at the store?—Until that quarrel they were buying goods at the store, but not afterwards.

*XXd.*

*Cross-  
examina-  
tion.*

*Chalmers :* 281. You have told us about this jack quarrel. Were you present?—Yes.

282. And wasn't it a fact that the dispute was that Chotabhai said this man wanted £5 compensation and they reckoned that was too much—that they were prepared to pay £2 10s. compensation for the jack?—I remember the occasion when Chotabhai said Mohammed Ali wants £5

compensation; when these people said £2 10s. I wasn't there then. I don't know about that conversation.

283. Can you tell us the conversation you heard about the jack?  
—This is what happened. As far as I know the jack was broken and Mohammed Ali demanded £5 for it. Chotabhai Patel asked these people to pay him the £5. I don't know what reply they gave him.

284. He asked these people. Who do you mean by "these people"?  
—The storekeeper was talking to Manu Joseph.

10 285. Wasn't the father there?—No, at that time he wasn't there, in my presence.

286. What excuse was made for not paying the £5?—He said, "I will ask my father and let you know."

287. Did you afterwards hear that he had offered to pay £2/10/-?  
—I didn't hear that.

288. Did you ever hear him refuse to pay the £5?—No, I didn't hear him refuse and I didn't hear him say he would pay.

289. You can't give us any idea if this was five or six months or what time it was before this shooting business?—No, I cannot tell you that for certain, because I don't remember.

20 290. Now these people—Joseph and his family—are Madrassis, are they not?—Yes.

291. Do Madrassis generally deal with Gujerati stores?—They please themselves. Wherever they can buy their goods they will buy.

292. As a matter of fact, at this time Emmanuel was running a taxi, wasn't he?—Yes.

293. And he was in and out of the Ndai township quite a lot, wasn't he?—Yes.

294. Now do you know Mohammed Hanif?—I came to know him after he began visiting Manu Joseph. I didn't know him before then.

30 295. You know for a fact that he was employed as a huller in the rice mill for some time?—It was after the quarrel that he began to associate with these people, and we never visited them so I don't know much about it.

296. But didn't you see him working there?—No. After the quarrelling and wrangling we never visited the rice mill.

297. But the rice mill is right near the road?—That is so.

298. Passing by the rice mill you can see the whole thing?—I am working—my time is occupied at the store and I don't go out that way.

299. In fact you can see the rice mill quite clearly from the store?—There is a house in between. Can't see it very clearly.

40 300. This man Chotabhai Patel—does he rent the store from Narain?  
—Yes.

301. Do you remember some trouble between Narain and Rampersad?  
—I really don't know what took place because I wasn't present at the quarrel. When I returned from Nadi town Chotabhai Patel told me about it.

302. I would like to hear what he told you about the row?—He said there was some wrangling between Narain and Rampersad.

303. And he was present. Did he tell you that there were any threats of shooting made at that time?—No. He did not tell me, neither  
50 did I ask him.

304. Are you sure you heard six shots, or only three shots, altogether?  
—I only know this: the shots that woke me were about three and then an interval, as I have already stated, and another three.

*In the  
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No. 5.

Evidence of

Yusuf,

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Supreme  
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Evidence of  
Yusuf,  
P.W.2,  
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1945,  
*continued.*  
Cross-  
examina-  
tion.

305. Did you tell the Magistrate below about having heard these other three shots?—I was only asked about these three shots. I said I heard three and nobody asked whether I heard any further shots.

306. You only heard three shots?—Yes.

307. And you have since told us that there were these other three?—  
Yes.

*Xcd.*

*Rice* : 308. You tell us you are a tailor?—Yes.

309. At the time of the shooting incident, were you operating on your own account or as a paid employee of Chotabhai?—I was working for Chotabhai. 10

310. He is quite a good business man, is he?—Yes, he had a fair amount of business.

311. And how long had you been in his employ?—One and a-half years to the time of the shooting.

312. If a third store were started up there, run by a new man, what do you think his chances would be of competing with Chotabhai and Lalji?—I can't say.

313. Haven't you any idea at all?—Can't say.

*Sharma* : No questions.

*Re-Xn.* : Nil.

20

*Assessors* :

*Grahame* : 314. After the shooting took place at 1 o'clock in the morning, who provided the light, or produced a torch?—There is a lamp always burning in the inside room, the room where the owner of the store sleeps with the family, but there are no lights inside the building where I was sleeping.

No. 6.  
Evidence of  
Valji,  
P.W.3,  
3rd  
September  
1945.

No. 6.  
EVIDENCE of Valji—P.W.3.

VALJI. Sworn.

(F/N Kalidas).

30

315. I think you have a store at Mulomulo?—Yes.

316. Do you trade under the name of Valji?—I trade under my elder brother's name—Lalji.

317. Do you remember one night when there was some shooting at Mulomulo?—Yes.

318. I think that was very late on the night of Saturday, 3rd February?—Yes.

319. Where were you that night?—I was in my store.

320. And what was the very first you knew about the shooting?— There was the report of a gun. 40

321. Just one report?—Roughly about four or five.

322. Did you get any idea from what direction these reports came?—My idea at the time was that they appeared to come from the slope down below near the school, where the mango trees are.

323. Were these shots in rapid succession or were there long intervals between them?—Quickly. In quick succession.
324. How quickly?—Just at very, very short intervals.
325. Would you mind tapping the witness box to show?—(Demonstrates.) That is only a rough idea of the way I heard it.
326. What happened next?—I got up and came outside.
327. What happened then?—Immediately I came out I heard Chotabhai's voice.
- 10 328. Where was he?—I heard him near Narain's house. I heard him call out, "Narain, Narain."
329. Can you see Chotabhai's store from your place?—Yes.
330. Do you remember whether you could see any lights in Chotabhai's store at that time?—I don't, but immediately I came out there were shots fired at my store, so I sat down straight away.
331. How many shots?—Three.
332. You didn't see who fired them?—No. I saved my life before finding out who was firing them.
333. Did you get any idea of what direction they were fired from?—From the low level, where the school is.
- 20 334. You thought it was about the same place as the first ones you heard?—Yes.
335. Well, did these shots that were fired at your store do any damage at all?—They made holes in the corrugated iron up on top—three holes.
336. Did you ever show these holes to the police?—Yes. The Inspector of Police, and several other officers were with him.
337. When you came out of the store, which door did you come out by?—Of my two doors—one facing west and one east—I came out of the door facing east.
- 30 338. Would that be away from where you thought the shots were coming?—That would be the opposite direction.
339. I think there are two stores at Mulomulo?—Well, close by there are two, and the third one would be about a mile away.
340. And there is nothing between you and the other store?—Chotabhai is quite close to me. The other store is about a mile away.
341. Do you know where Emmanuel Joseph lives?—Quite close to me.
342. In the rice mill?—Yes.
343. Who owns that rice mill?—Joseph.
- 40 344. Is that this accused?—No, the father of this accused.
345. How long has the father owned this rice mill?—Maybe more than eight or nine years, approximately, Joseph has been a rice seller.
346. How long has he owned it?—It is his rice mill. He has been there for eight or nine years.
347. Do you mean he has been living there for eight or nine years?—He was living at Nadi but he would come along on Saturday or Sunday and hull rice and then go back.
348. What was he doing at Nadi?—He was a school teacher.
- To Court* : 349. The father?—Yes.
- To C.C.* : 350. And what about his son—was he living at Nadi too?  
50 —During those days his son would be at school I should imagine.
351. Now you are talking of eight or nine years ago?—Yes.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
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—  
No. 6.

*Evidence of  
Valji,  
P.W.3,  
3rd  
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1945,  
continued.*

- In the Supreme Court of Fiji.*
- Prosecution Evidence.*
- No. 6.  
Evidence of Valji, P.W.3,  
3rd September 1945,  
*continued.*
352. At the time of this shooting, was the father still living at Nadi ?  
—No.
353. Was he still teaching school ?—No.
354. Where was he living ?—At Mulomulo.
355. At the rice mill ?—Yes, the whole family were living there.
356. How long ago did the family move to live at the rice mill at Mulomulo ?—Two to two and a half years before that they had been living there. Two to two and a half years before the shooting.
357. Was that the time when Joseph Senior gave up school teaching ?  
—Yes. 10
358. Then they started to operate the rice mill and live there as well ?—Yes.
359. Have you ever had any trouble with Manu the accused ?—Yes.
360. What was that ?—I had a lorry to go to Nandi. Having taken me one mile, he asked me for \$5.
361. Is this Manu ?—Yes. He took me one mile and asked for \$5. That resulted in a fight.
362. Who was fighting ?—The fight took place at the store, not at the place where the lorry had gone. 20
363. What happened ? Did he come to the store ?—He came to the store and demanded \$5 lorry fare.
364. And there was a fight, you say ?—Yes. Having come to the store, the fight took place at my store.
365. I want to know who was fighting ?—Manu, the accused, came to me and demanded \$5 lorry fare. I said “10/- is enough ; \$5 is too much for one mile.”
366. Yes. This is all talk. Was there any fighting ?—He fisted me here (indicates right cheek). Then I sued him. He was fined £5.
367. How long before the shots were fired did this take place ?— That happened in December, 1943. 30
368. Have you been on good terms with him since then ?—Well, talking terms ; but not so friendly.
369. Where did he buy his groceries, for example ?—Probably Nadi. I couldn't say exactly what store he purchases his goods from.
370. You mean that Joseph and Manu don't buy from your store ?  
—No. Not after that fight.
371. Do you know what terms he was on with Chotabhai ?—They were all right before.
- 1 p.m. Adjourned. 40  
2.15 p.m. Resumed.
372. When the Court rose you had said you had had certain trouble with Manu ?—Yes.
373. Had there been any trouble with either of the other two accused ?  
—No.
- Xrd.*
- Chalmers* : 374. You said this trouble you had took place in 1943 ?—  
Yes.
375. And is it not a fact that the trouble between you at that time was buried—finished and done with ?—I can't fathom his heart, whether 50  
he still had a grudge.
- Cross-examination.*

376. You never said anything in the lower court about this trouble with Manu, did you?—They didn't ask me, therefore I didn't tell them.

377. I think the last question was "Have you had any trouble with Manu?" and your answer was this, "Have no enmity with the accused."—I was asked whether there was any at the present time and I said "No, there is not any."

378. And did you ever tell anybody this: "I am not on bad terms with Emmanuel Joseph."?—No.

379. You didn't tell the police that?—No.

10 380. Well, if it appears in a statement written by you it would not be true then, that you said such a thing? If those words "I am not on bad terms with Emmanuel Joseph" appear on the statement it wouldn't be correct?—That I cannot explain. I am illiterate. Cannot read English.

381. Do I take it from you that you never said such a thing?—Maybe it was in reply to a question whether I am on good or bad terms at the present time, and I have stated I am not an enemy of his and there is no enmity between us.

20 382. This trouble had been buried and you were not at enmity? There was no trouble between you at the time?—Well, I am telling you that all along. It was only when I had this quarrel with him. There is nothing with him just now.

383. And since 1943, as you say to the Magistrate, there is no enmity between you?—Well, we were not on talking terms at all. He wouldn't talk to me and I wouldn't talk to him, so where can the enmity exist?

384. How many shots did you hear fired altogether?—Four or five.

385. All at the one time?—I am only referring to those shots I heard formerly. The first four or five.

30 386. And after that?—This was at Chotabhai's. When I came out of my store my store was fired at three times.

387. Did you ever tell anybody that you only heard one shot fired after you heard the five?—No.

388. You are sure of that?—Yes.

*Xcd.*

*Stuart*: 389. How long have you been in business?—Thirteen years.

390. And you and Chotabhai are the only storekeepers in that particular part of the district, I think you have told us?—Three in that settlement. One is about a mile away from us.

40 391. You have a pretty good business, I suppose?—Just fair, I would say.

392. And what sort of a business has Chotabhai got?—Just an ordinary, fair business.

393. Is there room in Mulomulo round about your locality for another storekeeper?—How can I say whether there is a chance or not?

394. Well, supposing another storekeeper were to open a business there, how would you get on?—Destiny rules that. How can I say? If he is lucky enough he will get his customers, otherwise he won't.

50 395. Did you ever hear that the accused's father was thinking of starting up business as a storekeeper? Manu's father?—I don't remember that.

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Evidence of  
Valji,  
P.W.3,  
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*continued.*  
Cross-  
examina-  
tion.

396. You never heard of that?—We don't talk to each other, so I wouldn't know.

387. (A) Well, supposing that he did, how do you think he would get on?—How can I say how he would get on?

388. (B) Do you think he would take your business?—No, he can't take my customers away. It is all fate.

389. (C) Do you think he would take customers away?—It is all destiny, as I have said before. He can't take anybody else's customers away.

390. (D) Now, you have told us your store was fired at?—Yes. 10

391. (E) In the front of the store, the side from which the shots were fired, how many rooms are there? That side which faces the road; on that side how many rooms are there?—One. That is the main store, and at the side of it is a room.

392. (F) Which room is on the side?—There are two rooms—one on this side and one on that side (indicates).

393. (G) You mean the south side and the north side?—As you enter, one is on the right-hand side and one at the back, behind the main store.

394. (H) One on the right-hand side and one at the back?—Yes.

395. (I) And I suppose the kitchen is attached?—It is attached to the 20 store building by a passage, but it is behind the back room.

396. (J) Which is your bedroom?—I myself personally sleep in the store itself. My family sleep in the back room, and the small room beside the store we keep extra goods in.

397. That is what you might call a bulk store?—Yes.

398. Now I think you have told us the shooting was from the front, wasn't it—the side that faces the road?—Yes.

399. Which wall did the bullets hit?—The front portion of the store faces the road and the direction of the shots was from towards the school, and I got out of the back door. (Indicates on plan.) 30

400. Which wall did the bullets enter?—The front roof.

401. All of them?—There were three holes made by bullets, but I can't say whether that was all or whether they had aimed some more.

402. And those three bullet holes were in the roof?—Yes.

403. And you heard those three shots?—Three hit my store.

404. You heard three shots at your store from the direction of the school?—Yes.

*Xad.*

*Sharma* : 405. Before the night of the shooting had you ever seen the third accused anywhere?—No. 40

*Re-Xn.* : Nil.

No. 7.  
Evidence of  
John Hugh  
Spencer,  
P.W.4,  
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No. 7.

**EVIDENCE of John Hugh Spencer—P.W.4.**

**JOHN HUGH SPENCER, sworn.**

Assistant Superintendent of Police.

406. I think you were stationed at Nadi on the 4th February last?—I was.

407. And you are still stationed there?—Yes.

408. And I think in the very early hours of that Sunday morning you went to Chotabhai Patel's store?—Yes.

409. That, of course, was the result of a report received at the station?—Yes.

410. Can you say what time that report came in?—3.30, as far as I can gather. I got the report at 4.

411. And you went out immediately, I take it?—Yes.

412. Before we go any further, can you remember what kind of a night it was?—The moon was almost gone when I got out.

10 413. You mean it was setting?—Yes.

414. Was it a clear sky, or otherwise?—At 4 o'clock in the morning it was slightly cloudy.

415. And can you remember what sort of a moon it was?—No.

416. And when you got to Chotabhai Patel's store, what did you find?—I found that a small child whom I later knew to be Ravindra had been shot to death.

417. Did you notice the injuries yourself?—The injury was a bullet injury.

418. And the child was dead when you saw it?—Yes.

20 419. Anyone else injured?—Yes, the eldest boy, called Surekand, and he had been slightly injured in the forearm.

420. And I think you arranged for the body and for the injured person to be dispatched to the hospital at Nadi?—I did.

421. Did you examine the store itself?—Yes. And found in the west wall of the house four bullet holes, and there was another hole in the floor of the sleeping room through which a bullet had also entered.

422. I think you subsequently prepared a sketch plan showing the various compartments into which the store was divided, and also the bullet holes. (I regret, Your Honour, that there is no copy of this sketch :  
30 I might have had copies made but I felt it would only be of passing importance to the Court.) Is that the plan you made?—Yes.

423. And on that plan you have indicated the various bullet holes?—Yes.

424. I think a search was made by certain constables and certain bullets were found?—Yes.

425. And you were shown by the various people where they were found?—Yes.

426. And have you indicated on that plan where the bullets were found?—Yes. The first bullet was found by P.C. Epi Drugu in a sack  
40 just inside the wall of the bulk store—the west wall. The entry hole made by that bullet was 2' 5" from the floor of the house.

427. How far is the floor from the ground?—2' 7½" at that point. It varies slightly along the frontage of the house, but not more than 2". 2' 9½" at the highest point.

428. That bullet was found by?—P.C. Epi in the sack.

429. How many were found altogether?—Two. The other was found in the same bulk room.

430. You took charge of the bullets?—Yes.

431. Could you say if it was a bullet similar to that that Const. Epi  
50 found in that sack?—That is the bullet.

432. The next one?—The second bullet was found in the wall of the same bulk room.

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Evidence of  
John Hugh  
Spencer,  
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Exhibit  
AA.

Exhibit D.

*In the  
Supreme  
Court of  
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*Evidence of  
John Hugh  
Spencer,  
P.W.4,  
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1945,  
continued.  
Exhibit E.*

433. Can you remember who found that one?—Yusuf, the tailor. This bullet was found in the sleeping room. It entered the bulk room but was found in the sleeping room, indicating that the bullet had ricocheted into the sleeping room. The course of this bullet up to the main partition has been shown. Beyond that it has been surmised that it was a ricochet.

434. You are talking from left to right?—Yes.

435. At what height did the bullet enter the store?—7' 11" from the floor.

436. And the next one?—The next bullet was found by P.C. Iaitia, 10 also in a sack in the second bulk room. That is the bullet. The entry hole of this bullet is 3' 2" above the floor of the house. The fourth hole was in the west wall of the same bulk room as the last. It passed through the partition into the general store at a level of 2' 4" from the floor. It ricocheted off a shelf holding dry goods and went through the far wall of the store at a height of 3' 11".

437. Was that bullet found?—That was not found. The fifth hole I found in the floor of the sleeping room, a distance of 1' 9" from the partition door and 11' 9" from the west wall of the house.

438. Can you say what became of that bullet?—That bullet was 20 handed to me by Superintendent Hooper.

Exhibit C. 439. I think that was on the 5th February?—Yes. That is the bullet.

440. I think you also prepared this plan which is already before the Court, showing the locality of Chotabhai's store and Joseph's rice mill?—Yes.

*To Court:* 441. That is the one of which we have copies?—Yes, this is the original.

*To C.C.:* 442. Is that plan to scale at all?—No. It was compiled by a rough method of triangulation. An approximate scale only. 30

443. Can you say that it nevertheless gives a reasonably accurate picture of the locality near the store?—An almost accurate picture of the locality.

444. Now there are a number of points marked on that plan concerning which I won't ask you anything at the moment; but you have indicated, I think, No. 10 as Chotabhai's store?—That is correct.

445. No. 9 Narain Sami's house?—Yes.

446. No. 8 is the rice mill?—Yes.

447. And No. 7 is Lalji's store?—Yes. The whole compound is 40 Lalji's; that bure belongs to him.

448. In Joseph's compound, No. 8, how many buildings are there?—At that time there were two. The rice mill, 8, and a living bure to the right of that.

449. And down below is No. 11 which you show as the school house?—Yes.

450. I take it that you ascertained the occupants of those various houses from the people themselves?—I did.

451. What sort of trees are those shown along the fence line?—Large and old mango trees.

452. Now running from opposite Lalji's store appears to be a track 50 which is shown by a double line, goes down near the school house and

comes back somewhere close to Narain Sami's house. Is that a track ?  
—Yes.

453. Are there any gates anywhere to get through those fences that are shown ?—There are no actual gates. There are posts indicating that at one time or another there were gates there. There is a gate post at 13, one at 14.

454. And by following that track would it be possible to get near point 2, near one of the mango trees ?—Quite possible.

*To Court :* 455. This is the track from Lalji's store, going round to Narain's ?—Yes. From point 13 to point 14 and through point 3.

*To C.C. :* 456. And it would be equally possible to go to Chotabhai's store through that track ?—Equally possible. I would point out that this is only a track ; it is not a car road. If you wanted to go by car you would have to take the upper track, which is a car road.

*To Court :* 457. And that runs from where to where ?—The car road is not actually marked. It runs past point 9, Narain's house. Passes 9 and 10. That is a car track.

458. Which side of it would the store be—Chotabhai's store ?—It ends at Chotabhai's store.

20 *To C.C. :* 459. There is also a road marked at the bottom left-hand corner "to Nadi" ?—Yes.

460. Is that a main road ?—It is a secondary road.

461. And if you follow that in this direction you would get to Nadi ?  
—Yes.

462. And the other way ?—To a small army camp. There is, I believe, an Indian settlement further along the road where there is a store. About a mile along the road.

463. This is a secondary road that branches off the main road ?—Yes.

30 464. And it goes on past this locality shown on the plan ?—On about another three miles.

465. Where does it join the main road ?—At Solovi.

466. From the junction to Nadi is about how far ?—Four miles.

*To Court :* 467. This road marked "To Nadi" is a secondary road ?  
—Yes. It goes to Solovi where it joins the main road.

468. Solovi is 2 miles on ?—Yes. And from Solovi to Nadi is approximately four miles.

40 *To C.C. :* 469. I think there is another point you could explain. From Nadi to Tunalia would you use this road at all ?—No. It depends : if you were going by car you would have to ; if you were riding or walking you would make a short cut across country. There are several ways you could go ; there is no particular track, but I noticed the country is open. You could ride across country anywhere.

470. Suppose you did decide to go by car from this locality to Tunalia ; which way would you follow this road ?—Due west—to Nadi.

471. In other words, you would follow this road down to the main road ?—Yes. The Queen's Road to Tunalia.

*To Court :* 472. Where is Tunalia ? On the Queen's Road ?—Slightly off the Queen's Road. But you would have to use the Queen's Road in the car to get there.

50 *To C.C. :* 473. Would you have to go right through Nandi ?—Yes.

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John Hugh  
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- Evidence of John Hugh Spencer, P.W.4, 3rd September 1945, *continued.*
- Exhibits G, H, I, J.
- Exhibit A.
- Cross-examination.
- To Court:* 474. From Nadi to Tunalia there is a short cut?—There is a short cut straight from Mulomulo. I wouldn't go that way personally.
475. How far would that be?—About three or four miles, approximately.
476. If you wanted to go by car then, you would have to go through Nadi?—Yes.
477. And that would be how far?—All of eight miles.
- To C.C.:* 478. You have shown that part of this area is planted with corn and rice—or was at the time?—Yes.
479. What is the situation of that store as regards the surrounding country?—It is level at the store, then the ground drops away in all directions except at the track which runs along the crown of the hill; otherwise it drops away steeply to the west, steeply to the south and more gradually inclined to the east.
480. It doesn't drop away at the north?—It doesn't drop away at all on the north. It runs along the crown of the hill.
481. Point 1 indicated on the plan. I think something was found there?—Yes. Four shells. Const. Epi Drugu showed that he found 4 empty cartridge cases there on the 4th February.
482. Do you know what caused the search to be made at that point?—Yes. Bullet holes were lined up in the walls of the house No. 10, and all the reeds pointed to this particular spot, and this place was searched and the bullets found.
483. And those cartridge cases were given to you, were they?—They were. These are the four that were handed to me by Const. Epi.
484. And that spot was found to be 50 yards from the store?—Yes.
485. Have you had any experience with those particular cartridges?—I know them to be 30 cal., used for an American carbine. They will only fit that.
486. And those four empty shells; what happened to them?—They were handed to me and I handed them over to Const. Ramcharitra on 6th February.
487. They were handed to him along with several other things?—Yes, together with all the bullets found in the store and also this rifle here.
488. Were you present when the carbine was found?—I wasn't.
489. When did you get it?—6th February.
490. Who gave it to you?—Const. Mesulame Cama.
491. Is this the carbine?—That is the rifle. No. 1995541.
492. Was it handed to you like that?—As far as I can recollect, the gun was handed to me wrapped in this cloth. Otherwise it was as it is.
- C.C.:* I would ask leave to recall this witness for the rest of his evidence, which includes the statements of the accused.
- XXd.*
- Stuart:* 493. You have told us the first bullet hole was how far from the floor?—I said, I think the first one was 2'5" from the floor and the floor 2'7½" from the ground.
494. And the bullet Yusuf found; the hole was 7'11" from the floor?—Yes.
495. How far was the floor from the ground?—2'9".
496. And the bullet found by Const. Ilaitia?—3'2" from the floor.
497. How far is the floor from the ground there?—There is a slight dip just there, but only a fraction. In any case, there wouldn't be more

than two inches difference in the whole of the west wall, allowing for the rise and fall of the ground.

498. The next bullet. Was the measurement taken from the ground there?—No. The measurements were taken in the first cases because they appeared to be a good mean measurement.

499. 2'7" and 2'9" ?—Yes.

500. In the other cases you didn't measure the height of the floor from the ground at all?—No.

501. Now you told the Court that at the time you first went out to this locality there was a bure near Joseph's rice mill?—Yes.

502. And I think you now say that bure is removed?—I am not sure about the bure, but the rice mill is gone.

503. Where has it gone to?—I don't know. Not from direct knowledge but from hearsay, it is in Lautoka.

504. Have you any idea what it is being used for now?—As far as I know, it is not being used.

505. Do you know why it was moved?—I have no idea.

506. Or when?—It was moved about two months after the shooting incident.

507. Somewhere about April or May?—Somewhere about May.

508. You have told us that from Chotabhai's store to Solovi junction is about 2½ miles?—Yes.

509. And it is four miles from the junction to Nadi?—Yes.

510. How far from Nadi to Tunalia?—I don't think I gave an estimate. I said that from Chotabhai's store would be about eight miles altogether by road.

511. Going down this road to Solovi and from Solovi to Nadi and along Queen's Road?—Yes. Tunalia is a very rambling locality.

512. And you say it is about 2 miles from Nadi to there?—If it is taken to be six miles from this point, yes.

513. You have been to Tunalia, haven't you?—Yes.

514. Don't you think it would be probably a bit more?—More than two miles from Nadi; I say again it depends very largely where you wish to go in Tunalia.

515. Where would it take you two miles to go?—You mean on the Queen's Road?

516. Yes?—I should say about half a mile this side of Korovuto, and then there would be some way to go off the main road into Tunalia.

*Xcd*

40 *Sharma*: 517. This cross-country track that leads from Mulomulo to Tunalia. Have you ever travelled by it?—I said it was possible.

518. Assuming it is possible to travel from Mulomulo to Tunalia over that area, have you ever travelled that way?—I haven't.

519. Have you ever measured the distance across country from Mulomulo to Tunalia?—No.

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John Hugh  
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Cross-  
examina-  
tion.

No. 8.  
Evidence of  
Epi Drugu,  
P.W.5,  
3rd  
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Exhibit D.

Exhibits G,  
H, I, J.

520. Do you know the nature of the country that lies between Mulomulo and Tunalia?—Yes.

521. What sort of country is it?—Reasonably flat. Undulating in parts.

522. Do you know whether there are any definite tracks leading from Mulomulo to Tunalia?—I couldn't tell you. I haven't been.

523. And you can't say whether people do travel across country from Mulomulo to Tunalia?—To my knowledge, no.

(The evidence of this witness is continued at p. 51.)

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No. 8.

10

EVIDENCE of Epi Drugu—P.W.5.

EPI DRUGU. Sworn.

Police Constable No. 436.

524. I believe you are stationed at Nadi?—Yes.

525. And I think on the morning of 4th February this year you went with Supt. Spencer and other police officers to Chotabhai's store at Mulomulo?—Yes.

526. And I think you found a bullet there?—Yes.

527. In a flour sack, was it?—Yes.

528. Did you give it to the Superintendent?—Yes.

20

529. Was it a bullet like that?—Yes.

530. Did Mr. Hooper come out afterwards?—Yes.

531. And did he send you down to search near the mango tree?—Yes.

532. Did you find some cartridge cases down there?—Yes.

533. How many?—Four.

534. And did you give those to the Superintendent too?—Yes. I just showed it to him.

535. Who did you give them to?—Then it was handed to Ramcharitra and then the Superintendent took charge of it I believe afterwards.

30

536. Did you show Mr. Spencer the point where you found the cartridge cases?—Yes.

537. About how far from the mango trees?—About nine yards away from the mango tree.

538. Were they close together?—Together, in one place.

539. They were like those?—Yes.

540. Do you know Const. Mesulame?—Yes.

541. Do you know if he is well at the present time?—He is sick at the present time.

542. Do you know what is the matter with him?—T.B. Phthisis.

40

543. Is he performing duties at the present time?—No. He is in hospital.

*Chalmers* : No questions.

*Rice* : No questions.

*Sharma* : No questions.

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## No. 9.

## EVIDENCE of Ilaitia Bera—P.W.6.

*In the  
Supreme  
Court of  
Fiji.*

## ILAITIA BERA.

Police Constable No. 598.

544. Stationed at Nadi ?—Yes.

545. I think you were also a member of that party that went out with Mr. Spencer on the morning of the 14th February ?—Yes.

546. And did you find a bullet somewhere at Chotabhai Patel's store ?  
—I did.

10 547. Whereabouts ?—On the floor inside the house.

548. Which room was it in ?—One of the bulk stores. It had goods in it.

549. Did you show Mr. Spencer where it was ?—Yes. This is it.

*Chalmers* : No questions.

*Rice* : No questions.

*Sharma* : No questions.

*Crown Counsel* : Would Your Honour agree that there has been sufficient evidence to make an application under section 288 of the Criminal Procedure Code to read the depositions of Constable Mesulame.

20 *The Court* : I don't think anybody has any objection. Strictly, there has not been any evidence that he is too ill to travel, but it is only very formal evidence.

*Crown Counsel* : I would ask that the deposition be read.

*Prosecution  
Evidence.*

No. 9.  
Evidence of  
Ilaitia Bera,  
P.W.6,  
3rd  
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Exhibit E.

## No. 10.

## EVIDENCE of Mesulame Cama taken before Commissioner.

Deposition of Const. No. 677 Mesulame read.

30 Constable No. 677, Fiji Police, stationed at Nadi. I remember the evening of February the 6th. I and accused Mandatt and Sub-Inspector Lal Singh and others went to a cane field at Tudalia. We were looking for a gun. We found one gun. That is the gun. It was wrapped in a tarpaulin (Exhibit P) placed inside the tin box (Exhibit B) and buried in the ground. It was buried in the cane field. I followed footmarks, found it buried between two rows. I also noticed the grass was withered where it had been trodden down. When Mr. Hooper had found everything I took them to the station, handed them over to Mr. Spencer. (Exhibits A, B and P.)

*Xend.*

*Mr. Stuart and Mr. Chalmers* : No questions.

(Sgd.) Const. 677 MESULAME.

40 Taken and sworn before me this 18th day of May, 1945.

(Sgd.) D. COLLINS,

A District Commissioner,  
Western District.

No. 10.  
Evidence of  
Mesulame  
Cama  
(taken  
before  
Commis-  
sioner and  
read at  
Trial),  
18th May  
1945.



## EVIDENCE of Shankar Bhai—P.W.7.

SHANKAR BHAI. Sworn.

*Prosecution  
Evidence.*

(F/N Najibhai Patel).

No. 11.  
Evidence of  
Shankar  
Bhai,  
P.W.7,  
3rd  
September  
1945.

550. I think you are a storekeeper?—Yes.

551. Whereabouts is your store?—Nadi town.

552. And I think it was you who actually put a report through to the Police about Chotabhai Patel?—Yes.

553. And did you travel out to Chotabhai's store with the police party?  
—Yes, I did. 10

554. You know Chotabhai, do you?—Yes.

555. And his family?—Yes.

556. Did you see the child Ravindra?—Yes.

557. Was he alive when you saw him?—No. Dead.

558. Do you know his eldest son, Surekand?—Yes.

559. Did you notice if he was injured when you were out there?  
Yes.

560. I think you took Ravindra's body and also this injured boy to the Nadi hospital?—Yes.

561. And from there you took them both to the Lautoka hospital?  
—Yes. In a motor-car. 20

562. And did you see Dr. McCauley at Lautoka?—Yes.

563. And did you identify the body to him?—Yes.

*Chalmers* : No questions.*Rice* : No questions.*Sharman* : No questions.

3.50 p.m. Adjourned.

9.30 a.m.

Tuesday, 4th September, 1945.

SECOND DAY.

No. 12.  
Evidence of  
Harry  
Halstead,  
P.W.8,  
4th  
September  
1945.

## EVIDENCE of Harry Halstead, P.W.8.

HARRY HALSTEAD. Sworn.

Asst. Supt. Police, i/c C.I.D., Suva.

564. I think as part of your training you have had considerable experience in firearms?—I have.

565. And you made a special study of ballistics and firearms from the forensic point of view?—I have.

566. I think you have taken special courses in the subject overseas?  
—I attended a course in New Zealand last year. 40

567. I think it was on the 9th February this year that you received various articles which are now exhibits in this case?—Yes.

568. From Const. Ramcharitra?—Yes. Const. No. 605, Ramcharitra.

Exhibit A.

569. I think amongst those was that gun?—Yes.

570. You can certify that from the number ?—No. 1995541.
571. While we are on the subject, could you explain the semi-automatic method of firing of this weapon ?—This carbine is loaded with eight shots. It is semi-automatic in type. When the first shot in the breach is fired the bolt is drawn back and replaces another bullet into the breach. You then fire again which immediately loads the gun again, until the whole of the eight shots are fired.
572. The rate of fire is influenced by ——?—By the rate of pressing the trigger.
- 10 573. One shot for each ?—Yes.
574. I think you also received bullets ?—I received four bullets. One marked with an X ; one marked with an O ; one marked with an asterisk on the left base ; one mutilated and unmarked.
575. Were those the bullets found in the store ?—Yes, these are the bullets.
576. And at the same time did you receive four fired cartridge cases ?—I did.
577. The cartridge cases found at point 2 on the plan ?—Each of these cartridges had a slip of paper in it numbered 1-4.
- 20 578. Did you test the carbine for finger prints ?—I did. I found none.
579. I think after receiving the weapon you fired four test rounds from it ?—That is so.
580. And recovered ?—I recovered both the bullets and the cartridge cases.
581. Can you say whether those are the test cartridge cases ?—These are the cartridge cases. I marked these in Indian ink A to D.
582. And those are the bullets ?—Yes.
583. Perhaps you would explain to the Court whether it is possible to ascertain from examining spent cartridge cases like that whether or not they have been fired from the same fire-arm ?—It is possible for the simple reason that when the gun is made the bolt on finishing in manufacture receives certain markings which are never identical. Or possibly there may be corrosion on the bolt which, of course, naturally leaves markings that are not there at the time of manufacture. When the gun is fired, the pressure (in this particular gun a pressure of 4,000 lbs. to the sq. inch) is deflected and the impressions on the bolt face are impressed on the softer metal of the cartridge case. These markings then can be compared under the microscope. No two guns, even of the same manufacture, will leave the same marking on the cartridge case.
- 40 584. And apart from the bolt face leaving a mark on the face of that cartridge, would any other part of the gun leave a mark on the cartridge case ?—On occasion the ejector and extractor also leave marks on the cartridge case, and there again microscopic differences must creep in in manufacture and assembly and these markings will be visible on the case, although not to such a great extent as the actual markings on the bolt face, but you can distinguish in many cases the extractor markings and the ejector markings.
585. Well you have referred to those four expended cartridge cases which we know as Exhibits G, H, I and J and also to the fact that from this carbine you fired four test rounds and recovered the cartridge cases which we call Exhibit N. Did you make a comparison between those test rounds and Exhibits G, H, I and J ?—I did, and I came to the opinion that the
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Court of  
Fiji.*
- Prosecution  
Evidence.*
- No. 12.  
Evidence of  
Harry  
Halstead,  
P.W.8,  
4th  
September  
1945,  
*continued.*
- Exhibits C,  
D, E, F.
- Exhibits G,  
H, I, J.
- Exhibit N.  
Exhibit M.

*In the  
Supreme  
Court  
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*Prosecution  
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No. 12.  
Evidence of  
Harry  
Halstead,  
P.W.8,  
4th  
September  
1945,  
*continued.*  
Exhibit K.

rounds that I received from Const. Ramcharitra were cartridge cases that had been fired by this gun.

586. And that would be the result of microscopic examination of the face of the cartridge?—That is so.

587. Did you take some enlarged photographs?—I photographed them by micrography after I had marked the cartridge cases with slips of paper with 1, 2, 3 and 4 on them in Indian ink, and the ones I fired, A, B, C D. These are the photographs which I took and mounted on this card. I marked on the card the points of similarity of the whole eight of these cartridge cases. It will be seen that in each case, apart from the markings 10 that I marked, the ejector mark is the same circular type in every case.

588. I think it was on the 21st February that you received a number of other spent cartridge cases from Supt. Hooper?—I received from Supt. Hooper 11 sealed envelopes containing each two used fired cartridge cases of the same type as those that are exhibits now in Court.

589. And in each of those 22 cases?—I examined these 22 cases and none of them bore similar markings in any way whatsoever to those that are now exhibits in Court, and none of them have a similar ejector mark, that is that circular scratch.

590. Could you say if these are the cases?—Yes. These are the 20 envelopes I received.

591. I think there are 11 envelopes?—That is so.

592. And I think you examined those 22 cases purely as a check on your work to see if there was any similarity with cases fired from another rifle of this type?—That is so.

593. Well now, coming to the bullets. You have told the Court that you received these four bullets which we know as Exhibits C, D, E and F, and also that you fired four test rounds and recovered the bullets, Ex. N. You have explained to the Court that in the case of the cartridge cases themselves it can be found whether or not they are fired from a certain 30 firearm. Can the same be done with bullets?—Yes. The barrel of a gun in manufacture, even though mass produced, receives different microscopic markings from the tools. And when a bullet is fired through a barrel it leaves on the casing what are known as striations—small grooves actually on the casing itself. These can be compared microscopically and will always be identical, with the same rifle. This one rifle will always leave what you might call finger prints on the bullet when it is fired.

594. Did you make a comparison between those 4 bullets C, D, E and F and your 4 test bullets?—Yes.

595. Did you come to any opinion?—I came to the conclusion that 40 they had been fired from the same weapon—that is this weapon now in Court.

596. Was it possible to produce any photographic proof of that?—I was unable to produce any photographic proof, since there is not in the Colony at the moment a comparison microscope.

*Chalmers* : No questions.

*Stuart* : No questions.

*Sharma* : No questions.

## No. 13.

## EVIDENCE of Madre—P.W.9.

MADRE. Sworn.

(f/n Karian.)

595A. Where do you live?—I used to live in Solovi before but at present I am living at Vitogo, Lautoka district.

596A. You were living at Solovi when the accused Manu and his family lived there?—Yes.

597. And you are now living at Vitogo?—Yes.

10 598. Is that where Joseph and his family are now living?—They live in the same settlement but I do not live with them. I live separately.

599. On what sort of terms are you with Joseph and his family?—Well, I am not at enmity with them or friendly with them. I am just neutral.

600. As you say, you were living at Solovi. They were actually living at Mulomulo, weren't they?—That is so.

601. How far would your place be from there?—I was living roughly about a mile away from them.

20 602. And you say, I think, that you are sort of neutral?—Yes. What I meant is I am not a very thick friend of the family.

603. Were you on visiting terms?—Yes, I would visit them. They had a rice mill and I would take my paddy there to be hulled.

604. You would only go there for that purpose—is that what you mean?—On certain occasions they borrowed agricultural implements from me, and I have gone there to recover them and sometimes I have taken those implements over myself.

30 605. What about the other accused, Mandatt and Rampratap? What sort of terms have you been on with them?—I know the second accused, Mandatt, very well because he lives at Mulomulo, but the third accused, Rampratap, I don't know.

606. What about Chotabhai Patel, the storekeeper, did you know him?—I knew him.

607. Are you on good terms with him too?—Yes.

608. And you heard that he had a shooting incident at his store in February?—Yes.

40 609. Do you know the date of that incident?—I have no recollection of the date, but I remember it was a Sunday morning when I got the information that the previous night these things happened, and Mr. A. D. Patel and some others had asked me to accompany them.

610. I wonder if you could tell the Court what you were doing the previous day, Saturday?—On that Saturday, the day before the Sunday, I had gone to Nadi.

611. And the purpose of your visit to Nadi?—I wanted to borrow some money.

612. Did you borrow it?—There was a moneylender by the name of Karupardan, and he had promised to lend me some money, and for that reason I was to go to Mr. Rice's office. I did go to Mr. Rice's office.

613. And you did get the money?—No, I didn't.

50 614. And did you go by yourself on this expedition to Nadi?—I left home alone, but in Nadi town I met the first accused, Manu Joseph.

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continued.*

615. Did you expect to meet him?—No, I didn't expect to meet him.

616. Do you happen to know the reasons for his presence in Nadi town that day?—He did inform me that he wanted to borrow some money also to spend on this rice mill of his, and he was there for that reason.

617. When did he tell you that?—When I met him in town.

618. Was that before you went to Mr. Rice's office?—Immediately I got to town I met the first accused, and he told me about this, and we both went together to Mr. Rice's office. 10

619. And you both applied for this money together did you? You were together when you asked for the money?—When we reached the office I went inside the office; there is another room outside the office; there are two rooms there. He was waiting outside when I was talking to Karupardan in the interior office, and then when Karupardan and I came out he approached Karupardan for some money and Karupardan said, "No, I wouldn't be able to lend you money, but I would be able to accommodate this man after two weeks."

620. So you both went to borrow money and neither of you got it? —Yes. 20

621. What did you do after that?—There was a festival at the Nadi temple. We both went to this festival there and in the evening we went back home.

622. You attended the festival together?—Yes.

623. And you left it together?—Yes.

624. About what time?—Roughly about 3 or 3.30 in the afternoon.

625. Did you go towards Mulomulo and Solovi together?—Yes.

626. What means of transport did you have, if any?—We walked.

627. I suppose you took the main road for a certain distance?—It wouldn't be the government road. We cross it at a certain point but 30 we wouldn't be going along the government road.

628. Did you stop anywhere on the way?—We rested under a mango tree.

629. That is, you and Joseph?—Myself and Manu, yes.

630. Could you say whereabouts this mango tree was?—There is a man living there by the name of Surayan, and this mango tree is quite close to Surayan's house.

631. How far would it be from Nadi town?—Roughly about three miles.

632. How far from Mulomulo?—Two miles. 40

633. And you sat down there?—We sat down.

634. What were you doing there?—We didn't do anything. We just sat there, resting for a while.

635. Just tired?—Yes.

636. Did you see anybody at all while you were there?—Yes.

637. Who?—Mandatt.

638. That is the accused Mandatt?—Yes.

639. What was he doing?—He was coming Mulomulo on horseback towards us.

640. Which would incidentally be towards Nadi town?—Yes. He was 50 going towards Nadi.

641. Was he going fast or slow?—He walked his horse. There is a drain somewhere near the place where we were, so he just came slowly.

642. You weren't expecting to see him ?—Didn't expect to see him there.
643. Was there any conversation with him ?—Yes. Manu asked him as to where he was going.
644. Did he reply to that ?—"I am going to Tunalia," he said. "I am going to bring that weapon with me when I return and cause a disturbance here."
645. Was there anything further said ?—No.
646. Did Manu say anything to that ?—No. That is all that happened.
- 10 He said he was going for this weapon and he went on and we went on towards our house.
647. The time would be about what ?—Roughly four o'clock.
648. You left as soon as he did ?—He rode on and we went on—continued our way home.
649. You went as soon as he did. You didn't wait until after he had gone ?—No. We weren't there after he had gone.
650. You had had enough rest, is that it ?—We had had our rest.
651. Where did you go ?—Both of us then went to our house first—my house.
- 20 652. At Solovi ?—Yes.
653. What for ?—My house comes first on our way to Solovi, so we rested at my house—had a meal. Manu also had a meal there with me and from there he went further on to his house, after his meal.
654. He went by himself, I take it ?—Yes.
655. And you remained at your house ?—Yes.
656. How long ?—I had a headache, and being tired I went off to sleep.
657. And the next thing you knew would be on Sunday morning when you heard the store had been shot up ?—Yes.
- 30 658. You have told the Court that you knew Joseph and his family fairly well although you are not particularly friendly with them ?—That is so. Just ordinary acquaintances.
659. And you say you are on similar terms with Chotabhai Patel ?—All my relationship was that I would go and buy goods at his store.
660. Do you still buy goods at his store ?—Well, I am living here now— at Lautoka district. Before I left the district I was buying goods at his store.
661. What was the nearest store from where you were living ?— For me Chotabhai Patel was the nearest.
- 40 662. Would you be able to assist the Court by saying that you know what terms Joseph's family was on with Chotabhai Patel ?—In the former days when they first came to that settlement, the first accused, Manu, was very friendly with Chotabhai Patel ; they got on very well. Then the rest is what I have heard ; there was a quarrel between the father of the accused, Joseph, and Chotabhai Patel over a jack.
663. Not what you have heard—what you know ?—Well, I haven't seen the Joseph family or Chotabhai Patel's family coming to blows, or anything like that.
664. Have you ever heard them discussing each other ?—I was never
- 50 with them when they were quarrelling.
665. Did you ever, for instance, happen to be at Joseph's place when Chotabhai's name cropped up ?—I remember an occasion when I

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was at Joseph's house they were discussing this jack, and Joseph was saying that Chotabhai demanded £5 compensation for it and it was too much, the jack was not worth £5, and it was then Chotabhai's name cropped up.

666. Do you know this man Hanif?—I know him.

*Prosecution  
Evidence.*

667. Have you ever heard any discussion between Hanif and Joseph?  
—No.

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*continued.*

668. He was living with the Joseph's, wasn't he?—He works for them at the rice mill.

669. And you have mentioned Mandatt?—Yes.

670. Do you know his brother, Rampersad?—Yes. 10

671. Do you know what terms Mandatt was on with Chotabhai?—

I don't know whether he was on good or bad terms with Chotabhai.

672. What about Hanif?—That also I don't know.

673. Do you know what terms Hanif was on with Joseph and his family?—He must be on good terms because he worked in that mill with them.

674. What about Mandatt?—That I don't know.

675. You don't know what terms Mandatt was on with Joseph and his family?—No, I don't know whether he is on friendly terms or whether any enmity exists between them. I can't say. 20

676. And all you really know about, then, that could have a bearing on this case is this conversation by the mango tree?—That is so.

*Cross-  
examina-  
tion.*

*Xxd.*

*Chalmers* : 677. You say you know the Joseph family. Do you happen to know that Joseph Senior had acquired a store in Vitogo where he was carrying on a business long before this affair?—Yes, that is true.

678. In fact he just occasionally visited Mulomulo—the father?—That is so.

679. And do you happen to know that another rice mill had started in Mulomulo a little time before this shooting, in opposition to Joseph's 30 mill?—Yes.

680. And did you happen to know that in consequence of this opposition mill Mr. Joseph had decided to erect his mill here in Lautoka?—Well that I didn't know, whether in consequence of that mill he wanted to bring his mill away, or what happened. That is his business.

681. But he did bring his mill away to where he is running the store?  
—Yes.

682. And he took the rice mill away, I think, after this shooting trouble, but he had actually left there to go and stay at Vitogo here sometime before the shooting?—That is so. 40

*Xxd.*

*Rice* : 683. This is not the first murder case you have given evidence in, is it?—I have been here when my brother was murdered.

684. Last October, wasn't it?—Yes.

685. The trial of one Raju and others, wasn't it?—Yes. Raju and others had accosted us and murdered my brother.

686. And you in that case were the star crown witness, weren't you?  
—Well, call it star witness or anything. I was one of them that got injured, besides my brother who was murdered.

687. Your story was that you were there when your brother was killed? 50  
—Yes, that is so.

688. And your evidence in that case was that he was killed while away from the house of the accused in circumstances which would make it a brutal murder?—That is so.

689. And the Court didn't believe that story, did it? On the contrary, it held that he was killed because you people came to the accuseds' house, isn't that right?—Two of them were sent to gaol, as far as I remember.

690. That is not an answer to the question.

*The Court*: When he gave evidence he said this killing took place some considerable distance from the accuseds' house, whereas the Court  
10 found that it took place at the accuseds' house?

*Witness*: What I said was the truth. It didn't take place at the house but where I said it took place.

*Rice*: 691. The net result was that six out of the eight accused were acquitted altogether, weren't they?—Yes. Six were acquitted and the other two were sent to gaol.

692. And the other two were convicted of manslaughter only?—That is what the Court held.

693. Well now I suggest that you told lies in that case, just the same as you are telling them in this one. What have you to say about that?—  
20 I don't gain anything by telling lies. I didn't tell any lies, neither am I telling lies now.

694. And you haven't told any lies at all?—No.

695. Let us then take your evidence bit by bit. Of the two accused Emmanuel Joseph and Mandatt, which one were you most friendly with?—Neither of them. They were mere acquaintances.

696. You say that each of them was a mere acquaintance?—That's right.

697. Had Mandatt ever been to your house?—No.

698. And therefore never eaten a meal there?—No. He hasn't had  
30 a meal there.

699. On the other hand, the other mere acquaintance you talk about—Manu—you took him home and gave him a meal?—It is not correct that we both went together to borrow money and we both went together. It so happened that we met in town and on our return we both had to come to the same settlement and on our way back my house comes first and I wanted to have something to eat and I couldn't let the man stand and eat myself. It is not our custom to let the other man stand and wait.

700. How far is your house from Emmanuel Joseph's?—About a mile.

701. And you had your meal about what time?—About 4.30.

702. And he left your house about what time?—About fifteen minutes after I had my meal he left for his house.

703. I understood you to say in your evidence-in-chief that soon after he left you went to sleep: isn't that so?—I went and lay down, yes.

704. And what time would you say you went and lay down?—About 5 o'clock, roughly.

705. You have already told us that Mandatt never went to your house. Had you ever been to his house?—No.

706. On the contrary, you have been to Emmanuel Joseph's house  
50 many a time?—Yes.

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tion.

707. And the matter doesn't even stop there, does it? Had you ever seen Mandatt before this Saturday afternoon that you have spoken about?—I have seen him before, yes.

708. And you knew him well?—Yes.

709. And you didn't even know his name, did you, prior to that day?—I know him as Rampersad's brother.

710. You didn't know his name prior to that Saturday, did you?—I didn't know his name.

711. And where did you first find out what his name was?—At the preliminary inquiry in the Lower Court. 10

712. Now, if there is one thing that is known among the people in the Nadi district it is this: that it is illegal to have weapons without a permit. Everybody knows that?—Yes.

713. And the story you want the Court to believe is this: that a man whose name you didn't even know openly spoke before you of going to get weapons. Is that what you want us to believe?—Well, he simply said he was going to get a weapon. A weapon might be any weapon. He said he was going to get a weapon and cause a disturbance.

714. He didn't hesitate to say that in front of you?—He was quite free, the way he said it. 20

715. All right. That is on the Saturday. At about what time?—About 4 o'clock.

716. Who was the first person you told about this?—When the police were making inquiries into this case they approached me and asked me what I was doing on that Saturday—where I had been and what I had done—and when I was giving my statement about meeting the second accused——

717. This, of course, after Chotabhai's baby was killed?—Yes.

718. What day of the week was it the police approached you for your statement?—I don't recollect now the day the police approached me. 30

719. Well, if you are to be believed, here you are on Saturday afternoon, 4 o'clock, hearing a man say that he was going to get a weapon and cause a disturbance. Why didn't you report that to the police straight away?—I didn't take any notice of what he said. I thought he was just bragging when he said he was going to get a weapon and cause a disturbance. I didn't know he was going to shoot anybody or was going to bring a gun with him.

720. Let us have this quite clear. Is it that you want the Court to believe that you didn't think he was in earnest?—I didn't take it seriously at all. 40

721. When did you first begin to think it might be serious?—After this incident at Chotabhai's store then I became suspicious of this man, the second accused.

722. And even then you didn't communicate your suspicions to the police. You waited until they came to see you?—The police came and asked me.

723. I suggest to you this: that when you say you met this man on the Saturday afternoon, that part of it is true?—Yes.

724. But that the conversation you heard was this. You heard the first accused say, "What I have told you to bring before, you bring it." 50 I suggest Manu said that?—No, I didn't hear that.

725. And Mandatt asked what he meant, and it was Manu who said, "The weapon"?—No, that is a lie. Nothing of that took place.

726. Well, you were, on your own admission, with Manu a long time after that?—Yes.

727. Was this matter ever referred to between you two again?—No.

728. Not in any aspect or form did either of you refer to it?—No.

729. Tell me some of the things that you and Manu spoke about after Mandatt had left?—I don't exactly remember what it was, but definitely it wasn't about what Mandatt had said. We didn't pay attention to what he had said.

730. Do you remember a single thing you said to each other?—No.

10 731. Not one?—No. I can't remember what it was we talked about.

732. And with the exception of the fact that you each wanted to borrow money from Karupardan, can you remember a single thing that you talked about before you met Mandatt?—The only thing I remember is that the sun was high and I suggested "Let us rest here for a while." He agreed and then there was some other conversation about the weather, and that was all.

733. From Nadi town to the spot where you rested would be how far?—Three miles, roughly.

20 734. And you walked that three miles, didn't you?—Yes.

735. On a hot day?—Yes.

736. And you can't tell us a single thing you talked about?—When you walk along with a friend you mightn't remember what you were speaking about so long ago.

737. You can't remember—And that is why I say it is difficult to remember. I can't remember what I spoke about.

30 738. I suggest to you that your attitude in this case is this. Manu is your very good friend and you want to see him well out of it and you are quite prepared to use the second accused as a stool pigeon, let us say, for him?—Sir, this is a Court of justice, and I have sworn to tell the truth. Nobody is a friend of mine who is sitting in the dock. I am telling you what I know, and that is all.

739. Not even Manu is a friend of yours?—No.

740. But you have told us about his eating meals at your house. Have you a liquor permit?—No.

741. Well, on your own admission in your police statement you have even drunk liquor with Emmanuel Joseph?—No.

40 742. Isn't that so?—What I have stated in the police statement was that it was Christmas Day and when I was returning from the store and was passing Manu's house and they were drinking beer, I stopped and had a drink with them.

743. Did you say this in your police statement? "Emmanuel didn't call us to his house but we went of our own will. Emmanuel gave me a glass of liquor which I drank." Did you say that?—I said a glass of beer.

744. It amounts to this: that he is sufficiently well acquainted with you to drink beer with you, and you haven't got a permit?—Among us Indians, whether you are a friend or not, if you happen to go to a house and if he is drinking beer he is bound to offer you a glass.

*XXd.*

50 *Sharma*: 745. Not only on Christmas Day did you drink this beer but also at a time some weeks before Christmas you drank liquor with Emmanuel?—No.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 13.

Evidence of  
Madre,

P.W.9,

4th

September

1945,

*continued.*

Cross-  
examina-  
tion.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 31.  
Evidence of  
Madre,  
P.W.9,  
4th  
September  
1945,  
*continued.*

Cross-  
examina-  
tion.

Re-  
examina-  
tion.

746. You know the Crown witness Subramani ?—I do.

747. What do you say if he says that some time before Christmas he saw you, Ramersad, Manu and Hanif drinking liquor at his rice mill and not at his home ?—You mean four of us were drinking liquor in the rice mill ?

748. Yes, that is what he said ?—Apart from that glass of beer I have had no other occasion to drink anything with Emmanuel.

749. Then Subramani would be telling a lie ?—Yes.

*The Court :* Why are you cross-examining this witness ? He gives no evidence against your client. 10

*Sharma :* Very well, sir.

*Re-Xd.*

750. You have told Mr. Rice something you told the police ?—Yes.

751. Namely, that on one occasion which you say was Christmas Day, you were drinking with Joseph and others either at his house or at the rice mill ?—That is correct.

752. That is true, is it ?—That is quite true.

753. Do you remember what the discussion was about at that time ?—Manu was saying then that it was a happy occasion and he had his clients there, and he said we can all join in a glass of beer. He said, “ You are here and you can have one, too.” 20

754. You have told the police about this drinking incident ?—Yes.

755. And did you tell them anything about the conversation on that occasion ?—It is such a long time ago, I don't recollect very well.

756. Think carefully ?—If you could tell me what it had relation to then I might be able to remember.

757. Was there any discussion about a wedding ?—I don't remember any conversation relating to a wedding.

758. Can you still answer my question ? Did you tell the police what conversation did take place ?—What conversation ? 30

759. I am asking you did you tell the police anything about a conversation at that meeting ?—I can't remember.

760. At any rate, whatever you told the police would be the truth, would it ?—I told the police the truth.

761. I will give you another chance to think carefully about the conversation ?—As far as I can remember now, I would say that there was not very much conversation on that day when we were drinking together.

*The Court :* Is it worth pursuing ?

*Crown Counsel :* It is a question whether I am allowed to pursue it, 40 sir.

*Chalmers :* It is going to open up a lot of work for me.

*The Court :* Is it worth it ? That is the question.

*Crown Counsel :* My answer is that it would be worth it.

*The Court :* Presumably you endeavoured to elicit the information in that statement, which I have not seen, in examination-in-chief without succeeding. I don't think you are entitled to try to get it in now.

*Crown Counsel :* I shall not press the matter.

## EVIDENCE of Baksh—P.W.10.

BAKSH. Sworn.

(f/n Gurdin).

762. Where do you live ?—Tunalia.
763. Do you know the accused Rampratap ?—Yes.
764. I think he also lives at Tunalia ?—Yes.
765. About how far from your place ?—Roughly about nine or ten chains away.
- 10 766. Does anyone live closer than you do to Rampratap ?—No one.
767. You are his nearest neighbour ?—Yes.
768. Do you know Mandatt ?—Yes.
769. Do you know if he is any way related to Rampratap ?—Brother-in-law to Rampratap's brother. Shadilal and Rampratap are brothers. Mandatt's sister is married to Shadilal who is Rampratap's brother.
770. Is that the only relationship between them ?—That is the only relationship.
771. Mandatt doesn't live with them, does he ?—No.
772. Did you hear of Chotabhai Patel's store being shot up at  
20 Mulomulo ?—I heard it during the daytime. It was noised abroad everywhere and I heard it during the daytime.
773. Which day did you hear about it ?—On Sunday.
774. And when did you understand the shooting up had taken place ?—I don't know whether it was in the night or whether it was the previous day.
775. You don't know whether it was the night or the previous day ?—Coming to Nadi I heard there was this shooting incident at Mulomulo.
776. And what day did you hear it ?—On Sunday.
777. I want you to think of the Saturday before that ?—Yes.
- 30 778. Had you seen Mandatt that day ?—Yes, he had gone there.
779. How did you see him ?—He came on horseback to my house.
780. Yes ?—He got off the horse, he tied the horse to a hedge. Having tied the horse he said "I am going to see my sister" and he walked towards his sister's house.
781. That is the one that is married to Shadilal, is it ?—Yes.
782. Did you see where he went ?—He went to his brother-in-law's, Shadilal; to his sister's house.
783. How far is Shadilal's house from Rampratap's ?—It is quite close. All the houses in that vicinity are about a chain or half a chain  
40 in area.
784. Is it the same compound or not ?—Yes, one compound.
785. What happened then ?—About 5 o'clock or thereabouts, roughly, I am not sure of the time, he untethered the horse, got on the horse and rode back.
786. Did you see him do that ?—Yes. I saw him go away riding.
787. Did he have anything with him ?—I didn't see anything with him.
788. Did you speak to him at all ?—Yes. He said "I am going home."
789. Do you know why he should leave his horse at your place ?—  
50 I had asked him why he was tying his horse there. He said "Just for a short time—I am going back very soon."

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 14.  
Evidence of  
Baksh,  
P.W.10,  
4th  
September  
1945.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 14.  
Evidence of  
Baksh,  
P.W.10,  
4th  
September  
1945,  
*continued.*

790. Is there any reason why he couldn't have tied it at Shadilal's place?—I don't know why he tied it up near my house.

791. And you say it was about five o'clock when he left?—Yes.

792. How long would you be in Shadilal's altogether?—I didn't have a clock or anything with me; I am only guessing.

793. Well guess?—When he arrived it would be about three in the afternoon, I would say, roughly. From 3 to 5.

794. Do you know what the actual date was that Saturday?—It was the fifth.

795. What month?—I don't know the month. 10

796. How long ago?—I don't know. I am an ignorant person. Not educated. I don't know when it happened.

797. We had better come back to this now. You heard about the shooting at Mulomulo on a Sunday?—Yes, on Sunday in Nadi town.

798. When did you hear the shooting took place?—Mid-day, 12 o'clock.

799. When did you understand that the shooting had taken place?—Probably the previous night. It was all noised abroad throughout Nadi that during the night the shooting had taken place.

*Chalmers* : No questions. 20

*XXd.*

Cross-  
examina-  
tion.

*Rice* : 800. Have you ever visited Shadilal's house?—Yes, it is quite close to mine.

801. And I suppose you are friendly with him as a neighbour?—Not very friendly.

802. You are friendly with him as one is to one's neighbour; that is what I mean?—Yes.

803. Did you see Shadilal's wife that day?—I didn't see her on that day.

804. She, of course, is Mandatt's sister?—Yes. 30

805. Did you know that at that time she had a very bad finger? I am not sure whether it was poisoned or diseased in some way. Did you hear about that?—Yes, that's true.

806. And in fact shortly afterwards she had to go into Nadi hospital for an operation on that finger?—Yes. She went to the hospital on the Saturday.

*To Court* : 807. That very same day?—The very same Saturday.

*To Rice* : 808. I suggest to you that she didn't go until at least the following Monday?—She went to the hospital on Saturday.

809. And you are prepared to swear that it was the same Saturday? 40  
—Yes.

810. Did you see her go?—Yes. She passed my house.

811. Who took her?—Her husband.

812. What time did he take her?—About 8 o'clock or 7 o'clock. It was before 10.

813. In the morning?—Yes.

814. You are telling me then that Shadilal wasn't there in the afternoon; is that right?—He wasn't there. I didn't go to Shadilal's.

815. You say you saw Shadilal take his wife away about 8 or 10 o'clock in the morning, is that it?—Yes. 50

816. Are you telling me this: that when Mandatt came out to Tunalia Shadilal wasn't there?—No, he wasn't there.

817. Nor was his wife?—I am feeling ill.

Witness faints.

Court adjourned for 10 minutes.

11.30—Resumed.

(The evidence of this witness is continued at p. 49.)

*Crown Counsel*: I regret to say that the last witness, Baksh, has not recovered. I will call Jaganandan.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 14.  
Evidence of  
Baksh,  
P.W.10,  
4th  
September  
1945,  
*continued.*  
Cross-  
examina-  
tion.

10

No. 15.

**EVIDENCE of Jaganandan—P.W.11.**

JAGANANDAN. Sworn.

(f/n Davu)

818. I want to ask you about a Saturday in February this year—the first Saturday in the month?—Yes.

819. Did you go anywhere that day or that evening?—Yes.

820. Where?—Naksha's.

821. Where does he live?—I went to Naksha's place. He lives at Masimasi.

20 822. And what did you go there for?—I had an invitation.

823. What was going on there?—There was an engagement ceremony for his son.

824. What time did you leave Naksha's?—Four o'clock in the morning.

825. And where do you live?—Togo.

826. How far would you have to go then?—About one to one and a half miles.

827. Did you travel by yourself?—Someone else with me.

828. Who was with you?—Deonarain.

30 829. Anyone else?—Another small boy.

830. Were you on foot or on horseback?—We were walking.

831. Did you see anyone on the way?—Yes.

832. Who?—On meeting I said "Who is it?" He said "It is me." I said "What is your name?" then he said "Mandatt." I said "Who are you?" and he said "Mandatt."

*To Court*: 833. On the way he met one person or more?

Witness: Two people.

No. 15.  
Evidence of  
Jaganan-  
dan,  
P.W.11,  
4th  
September  
1945.

*In the  
Supreme  
Court of  
Fiji.*  
*Prosecution  
Evidence.*  
No. 15.  
Evidence of  
Jaganan-  
dan,  
P.W.11,  
4th  
September  
1945,  
*continued.*

*To C. C. :* 834. And one of them said he was Mandatt, is that it?—  
Yes.

835. Was it Mandatt, do you know?—Yes.

836. Did you know Mandatt before that?—Yes.

837. Do you know where he lives?—Mulomulo.

838. Do you know who the man with him was?—I don't know that  
man.

839. Were these men walking or on horseback?—On horseback.

840. Two horses?—Yes.

841. Now you say you know Mandatt lives at Mulomulo?—Yes. 10

842. When you saw him was he going towards Mulomulo?—We  
were going towards the east and they were going towards the west.

843. Does that mean they were going in the direction of Mulomulo,  
or not?—No.

844. Which direction would they be going in?—I can't say definitely,  
because the direction they were going is towards Masimasi and Vuniasi  
and all those settlements. In that direction they were going.

845. Where is Tunalia?—It is further on from Vuniasi.

846. The place where you saw them and the direction they were going  
in; were they consistent with coming away from Mulomulo and going 20  
towards Tunalia?—That would be consistent.

847. How far from Mulomulo would they be when you met?—About  
six miles away.

848. How far from Tunalia?—Between seven and eight miles from  
Tunalia.

849. Well you have said there was some conversation and you  
mentioned part of it, I think?—Yes.

850. What exactly was said when this meeting took place?—First  
of all I asked, "Who is it" or "Who are you?" He said, "It is I,"  
I said, "What is your name?" He replied "Mandatt." I said, "Where 30  
are you going?" and his companion who was with him said, "We are  
going home."

851. Are you quite certain that one of these men was Mandatt?—  
I know for certain that one out of the two was Mandatt.

852. How do you know?—I know the man.

853. Are you just relying on what this man said when he said he was  
Mandatt?—No, I recognised him as well as Mandatt.

854. How long have you known Mandatt?—For about two or three  
years.

*Chalmers :* No questions.

*Rice :* No questions.

*Sharma :* No questions.

*To Court :* 855. What sort of night was it?—Moonlight night.

## EVIDENCE of Deonarain—P.W.12

DEONARAIN. Sworn.

(f/n Jaganath.)

856. Where do you live ?—Togo.  
 857. Do you know Jaganandan ?—Yes.  
 858. Do you remember going somewhere with him one Saturday night in February of this year ?—Yes. It was a Saturday.  
 859. Where did you go ?—Naksha's house.  
 10 860. What for ?—There was an invitation extended to us for an engagement ceremony that took place at his house for his son.  
 861. Well, did you go home that night to your own place ?—Yes.  
 862. What time did you leave Naksha's ?—Didn't have a clock or anything to see the time. Roughly four or 4.30.  
 863. In the early morning ?—Yes.  
 864. Was there any moon that night ?—Yes.  
 865. Had the moon set ?—Just about to set.  
 866. Did you go by yourself ?—Myself, the last witness and a small boy that was with me.  
 20 867. Did you see anyone on the way ?—Yes.  
 868. Who did you see ?—Saw two boys on horseback.  
 869. Did you know who they were ?—I didn't know them.  
 870. Was there any conversation with them ?—Yes.  
 871. What was said ?—Jaghu said, " Who is it ? " and he said " It is I." " Who are you ? " and he said, " It is I." " Who are you ? " and the reply was " Mandatt " or " Manidatt " or something like that. Jaghu then asked, " Where are you going ? " The boy ahead said, " We are going home." Saying that much they went in the other direction and we went home.  
 30 872. They were on a track, were they ?—Yes.  
 873. Did you actually go right past them on the way ?—Yes.  
*Chalmers* : No questions.  
*Rice* : We have no questions.  
*Sharma* : No questions.

*In the  
 Supreme  
 Court of  
 Fiji.*

*Prosecution  
 Evidence.*

No. 16.  
 Evidence of  
 Deonarain,  
 P.W.12,  
 4th  
 September  
 1945.

## EVIDENCE of Subramani—P.W.13.

SUBBRAMANI. Sworn.

(f/n Chinnah)

874. I think you live at Solovi ?—Yes.  
 40 875. And you are a farmer there ?—Yes.  
 876. Solovi is quite near to Mulomulo, isn't it ?—Yes.  
 877. Do you know Chotabhai Patel, the storekeeper at Mulomulo ?—  
 I know him.  
 878. Do you know any of these accused ?—The first and the second accused I know.

No. 17.  
 Evidence of  
 Subramani,  
 P.W.13,  
 4th  
 September  
 1945.



*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

*No. 17.  
Evidence of  
Subramani,  
P.W.13,  
4th  
September  
1945,  
continued.*

879. Do you know where the first was living?—You mean before?
880. Yes, go on?—I don't know where he was before but ever since he came to Mulomulo I know where he was.
881. Where was that?—At the school.
882. What was he doing there?—He was the school teacher at that school.
883. And were any of his family there?—There were three: the father and himself—the accused—and the accused's sister.
884. All teaching at Mulomulo school?—Yes.
885. Do you know whether they are still teaching at the school?— 10  
No, they are not.
886. Do you know when they left?—I don't remember.
887. Do you know whether they all left at the same time?—First of all, the father, Mr. Joseph, came here and opened a store.
888. Yes?—Then the family followed later.
889. And whereabouts was it they opened the store?—Maivata, Vitogo.
890. You mean that as soon as Joseph Senior left the school he went to Vitogo?—No. After some time. He remained there for some time.
891. When he left the school where did he go?—They had some 20 land there just close by. They went to that land.
892. And what were they doing there?—They had a rice mill running there.
893. At Mulomulo?—Yes.
894. And was Manu living there?—Yes.
895. Did you ever have occasion to go to that rice mill?—Yes.
896. Do you know Hanif?—I know him.
897. He used to run the mill?—I don't know what particular job he had, but—
898. Do you know where he lived?—He lives at Nawaka. 30
899. Where did he live at the time of this rice mill?—You mean the day I took my paddy?
900. Yes, that day will do. Where was he living then?—He was there when I took the paddy.
901. But he didn't live there normally?—That I don't know.
902. This day that you took your paddy?—Yes.
903. Do you remember how long ago that was?—Before Christmas.
904. Before last Christmas, you mean?—Yes.
905. About how long before Christmas?—About 2 or 3 days before.
906. And who did you see at the rice mill on that occasion?—I saw 40  
Hanif, Manu, Rampersad, Madre.
907. Just where were they?—They were in a thatched house beside the rice mill.
908. What were they doing?—Drinking liquor.
909. Were they talking at all?—Yes.
910. Did you hear any of the conversation?—They were talking in English.
911. Did you understand any of it?—I couldn't understand what they were saying. I can't read or write English.
912. Was Madre there?—Yes. 50
913. Was he talking in English?—Yes.
914. And you can't read or write English?—I can't.

915. Can you understand it at all?—No.

916. Did you have anything to drink while you were there?—Yes, they gave me a nip.

917. In English did they offer it to you?—No, they just handed it to me.

918. Nothing said at all?—No.

919. How long did you stay there?—Just for a short time, and after the rice was husked I went away.

920. Who husked the rice?—Manu's younger brother, Dani.

10 921. He wasn't drinking?—No.

922. During the whole of that time that you were there was a single word of Hindustani used at all?—No.

923. Or Tamil?—No.

924. Think carefully. They kept this conversation in English?—Yes.

925. Did you speak to them?—No.

926. Didn't even greet them?—No. I only requested Dani to run the machine for me.

927. And the police asked you about this?—Yes.

20 928. And you told them about it?—Yes.

929. Was it what you have been telling the Court to-day?—Yes.

*Crown Counsel* : I would ask leave to put his statements to him.

*The Court* : Ask him first was anything said at all which he did understand.

*To C.C.* : 930. Was anything said at all during that conversation which you could understand?—No.

*C.C.* : Have I leave to put this man's previous statements to him?

*The Court* : Yes.

30 *Chalmers* : On what grounds can the Crown Prosecutor attempt to contradict his own witness?

*The Court* : I suppose he says the witness is hostile.

*Chalmers* : "Hostile" is the conduct of the witness in the box, and I submit there is nothing to indicate in the conduct of this witness that he is hostile.

*The Court* : Is that so?

*Chalmers* : That is the authority, if Your Honour pleases.

*The Court* : Give me the authority.

Suppose we call another witness while Mr. Chalmers is looking for the authority.

40 *C.C.* : I come to the difficulty that my next witnesses are all police witnesses.

*The Court* : Well, let us have one.

(The evidence of this witness is continued at p. 54.)

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 17.  
Evidence of  
Subramani,  
P.W.13,  
4th  
September  
1945,  
*continued.*

*In the  
Supreme  
Court of  
Fiji.*

No. 18.

**EVIDENCE of Lal Singh—P.W.14.**

Sub-Inspector LAL SINGH. Sworn.

*Prosecution  
Evidence.*

No. 18.  
Evidence of  
Lal Singh,  
P.W.14,  
4th  
September  
1945.  
Exhibit BB.

931. I think you took part in the investigations in this case?—Yes, I did.

932. And you actually went out with Supt. Spencer to Mulomulo on that Sunday morning?—Yes.

933. I think one of the earliest things you did was to take a certain statement from the accused, Emmanuel Joseph?—I did.

934. Would you look at that statement and see if that is the one 10 you took?—No.

935. Did you take the statement down by any chance?—Yes.

936. You only acted in that you took the statement down, is that right?—Yes.

*The Court* : The first statement was “Z,” wasn’t it?

*C.C.* : Yes, that is Const. Ramcharitra’s evidence. I am in the difficulty which I hinted at that Nanka Singh has not yet arrived from Suva ; he will take the story from Ramcharitra onwards.

*The Court* : When is he expected ?

*C.C.* : In the morning. I do hope to present these in logical sequence. 20

*The Court* : I think it would be better to keep them in order.

(The evidence of this witness is continued at p. 66.)

No. 19.  
Evidence of  
Ram-  
charitra,  
P.W.15,  
4th  
September  
1945.

No. 19.

**EVIDENCE of Ramcharitra—P.W.15.**

RAMCHARITRA. Sworn.

Constable No. 305.

937. Now I think you accompanied Superintendent Spencer on that Sunday morning, 4th February, when you went to Mulomulo?—I did.

938. We have had evidence from Const. Epi Drugu that he found some empty cartridge cases somewhere near that store?—Yes. 30

939. Were you with him when he found them?—Yes.

940. And did you mark those cartridge cases?—Yes.

Exhibits  
G, H, I, J.

941. Are those the ones?—Yes.

942. Did you mark the place where they were found in any way?—Yes.

943. How did you mark the spot?—By putting pegs.

944. And did you afterwards show Mr. Spencer where the pegs were?—Yes.

945. I think later on you were sent to take certain things to Mr. Halstead?—Yes. 40

946. I think it was on the 7th February that Mr. Spencer gave you this rifle, Ex. A ?—Yes.

947. And also those four cartridge cases which you have just identified, G.H.I.J. ?—Yes.

948. And also four bullets, C.D.E.F. ?—Yes.

949. And did you take those things to Suva and hand them over to Supt. Halstead ?—Yes.

950. That was on the 8th ?—Yes.

10 see the accused Emmanuel Joseph that day ?—Yes.

952. And did you take a statement from him ?—Yes.

953. And had he been arrested at that time ?—No.

954. You were just making inquiries in the neighbourhood ?—Yes.

955. Where did you find Emmanuel Joseph ?—At his house.

956. About what time did you take the statement from him ?—

7 a.m.

957. It was quite a voluntary statement ?—Yes.

958. Do you remember what language he spoke in ?—Hindustani.

959. And you wrote down what he said in English ?—Yes.

20 960. Did you read it back to him ?—Yes.

961. In what language did you read it back ?—Hindustani.

962. Did he seem to understand it all right ?—Yes.

963. And approved of it before he signed it ?—Yes.

964. And signed it in your presence ?—Yes.

965. Is that the statement ?—Yes.

(Statement read.)

*Xcd.*

*Chalmers* : 966. You took this statement at Mulomulo ?—Yes.

967. Who was present when it was taken ?—Nobody was there.

30 968. Just you and the accused ?—Yes.

969. Hanif was not there ?—He was there but far away.

970. He couldn't hear ?—He couldn't hear.

971. Was this just his own statement, or did you ask him questions ?  
—I generally asked him questions.

972. This was really taken down in answer to questions you put to him ?—Yes.

*Rice* : No questions.

*Sharma* : No questions.

40 *Crown Counsel* : I am instructed that the witness Baksh is in a fit state to give further evidence.

No. 20.

EVIDENCE of Baksh—P.W.10—(continued from p. 43).

BAKSH—continued.

*Xxn.*

(contd.)

*Rice* : 973. The wife of Shadilal went several times to the hospital with that finger, didn't she ?—I don't know.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 19.  
Evidence of  
Ram-  
charitra,  
P.W.15,  
4th  
September  
1945,  
*continued.*

Cross-  
examina-  
tion.

No. 20.  
Evidence of  
Baksh,  
P.W.10  
(continued),  
4th  
September  
1945.

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974. Don't you know she was going there and back and getting treatment?—That I don't know.

975. Don't you know that ultimately she had to have an operation on it?—No.

*Prosecution  
Evidence.*

976. Well, my instructions are these: that she did go to the hospital that Saturday you talk about, that she came back in the afternoon, and in fact that she was back when her brother, Mandatt, went out there. Isn't that so?—I don't know. The only thing I know is that Mandatt arrived there, went to that house, came back and rode back again.

No. 20.  
Evidence of  
Baksh,  
P.W.10  
(continued),  
4th  
September  
1945,  
continued.

977. I am asking about his sister, and it is no good saying you know 10 nothing about that, because the very first question I put to you on the subject you said you knew she did have a bad hand. Now if you don't know anything about that, how did you find out she had a bad finger at all?—I have already told you that that Saturday morning she went in to the hospital. Whether she was admitted or whether she came back I don't know.

978. I have asked you how you found out she had a bad finger?—I know because of the fact that she passed my house in the morning.

979. But every woman that passes your house in the morning hasn't got a bad finger?—That I don't know.

980. Tell us how you knew that, will you?—She was going in the 20 morning to the hospital. She said "My finger is swollen."

981. Who did she say that to?—As she passed my house. She said it had turned septic.

982. Who did she say that to?—Told me. He said he was taking her to hospital.

983. Who—Shadilal did?—Yes.

984. And you don't know whether she returned that day or not?—That I don't know.

*Cross-  
examina-  
tion.*

*Xad.*

*Sharma* : 985. You know the accused Rampratap well, do you not? 30 —Yes.

986. On that Saturday to which Crown Counsel is referring did you see Rampratap anywhere?—No.

987. Did you see him anywhere on the Sunday following that Saturday?—I didn't.

*Re-  
examina-  
tion*

*Re-xd.*

988. Did you know that Mandatt was going to see his sister?—He said that to me.

989. And you were under the impression that his sister was going to the hospital? 40

*Rice* : I object to that question.

*The Court* : It is quite legitimate.

*Witness* : Yes.

990. Did you mention that fact to Mandatt?—No.

EVIDENCE of John Hugh Spencer—P.W.4—(continued from p. 28).

JOHN HUGH SPENCER. Contd.

Asst. Supt. of Police.

991. I think you took a statement from Emmanuel Joseph in the course of your inquiries?—I did.

992. And you have already heard evidence from Const. Ramcharitra that he took a statement about 7 o'clock in the morning on that Sunday, the 4th?—Yes.

10 993. And I think you took a statement also on that day?—Yes, I took a statement at 9.45 on the same evening at Mulomulo.

994. Had the accused been arrested at that time?—He had not been arrested.

995. Did you caution him at all before you took the statement?—I did not. I had no reason to at that stage.

996. Did you know at that time that he had already made a statement to Ramcharitra?—I did.

997. Your reason then for taking a second statement?—I wished to clear up some further matters that had not been mentioned in the first statement.

998. Was Emmanuel Joseph threatened or promised anything to make the statement?—No.

999. What language did he speak in?—The English language. I had S/I Lal Singh to translate, and he volunteered to give it in English, in which he is thoroughly literate.

1000. Where was this statement taken?—At Mulomulo.

1001. Where was it typed—out there?—Yes. I took my typewriter.

1002. Did you read it back to him after you had typed it?—I did.

1003. And did he approve of it before he signed it?—Yes.

30 1004. Is that the statement?—Yes.

1005. I think there is some further matter written on the back in continuation of that statement?—That was not taken by me.

1006. You don't know anything about it?—No.

1007. I put that in if Your Honour pleases.

Statement read.

1008. Did you sign it yourself?—I took it, but I didn't sign it.

(This witness is recalled, evidence at p. 77.)

1 p.m. Adjourned.

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*Prosecution  
Evidence.*

No. 21.

Evidence of  
John Hugh  
Spencer,  
P.W.4  
(continued),  
4th  
September  
1945.

Exhibit BB.

2.15 p.m. Resumed.

No. 22.

*In the  
Supreme  
Court of  
Fiji.*

## EVIDENCE of Dr. Menzies Llewellyn Macauley—P.W.16.

*Prosecution  
Evidence.*

MENZIES LLEWELLYN MACAULEY. Sworn.

No. 22.  
Evidence of  
Dr. Menzies  
Llewellyn  
Macauley,  
P.W.16,  
4th  
September  
1945.

1009. You are a duly qualified medical practitioner?—Yes.
1010. And at the present time you are in charge of this district?—  
Yes.
1011. I think you were here on the 4th February this year?—Yes.
1012. Do you remember on the 4th February receiving the body of  
an eight months' old infant?—Yes. 10
1013. I think that child was identified to you by one Shankar Bhai?  
—Yes.
1014. And he told you that the name of the child was Ravindra?—  
Yes.
1015. And that same morning you made a post-mortem examination?  
—Yes.
1016. Was the body clothed when you saw it?—Yes, in a pink  
coloured frock and a pair of knickers.
1017. Was there any damage to the clothing?—The frock had two  
holes in it, one on the right side and the other on the left side. 20
1018. Did you find any wounds?—The articles of clothing were  
removed and I found two wounds on the surface of the body.
1019. Whereabouts?—The larger of the two was situated on the  
right side below the armpit and the other on the left side of the back.
1020. Was either of those wounds discoloured? I am suggesting  
powder burns?—No, there was no impregnation of the skin.
1021. And did you examine the course of the wound?—Yes. A  
probe inserted into the wound on the right side came out easily on the  
left side through the wound that was there.
1022. Would that be consistent then with the bullet having gone clean 30  
through the body?—Yes.
1023. Did you find any bullet or any fragments of metal at all in the  
body?—No. None whatever.
1024. Were any vital organs damaged?—Yes. Inside the abdomen,  
the back part of the liver and top of right kidney were lacerated, torn.  
The spine between the first and second lumbar vertebræ was torn through.  
The left kidney also torn.
1025. Did you form an opinion as to the cause of death?—Shock and  
hæmorrhage was the cause of death.
1026. And the cause of the shock and hæmorrhage?—The injuries 40  
that I have described.
1027. Did you form any opinion as to which was the entrance and  
which was the exit wound in this case?—The wound on the right side was  
the entrance wound, the one on the right side being the larger of the two,  
and the wound on the left side was the wound of exit, being the smaller  
of the two.
1028. Did you form that opinion purely on the relative sizes of the  
two wounds?—Yes.
1029. Would that damage cause instant death?—Yes.
1030. Did the wounds have any defined shape at all?—The large 50  
wound on the right side, its length was measured and it was  $1\frac{1}{8}$  of an inch.

It was oval shaped. Its diameter  $\frac{5}{8}$ " and its depth down through ribs and tissues. The eighth rib was completely broken in the depth of the wound.

1031. The other wound ?—The other wound—length  $\frac{2}{3}$ ", diameter  $\frac{1}{4}$ ".

1032. And was the whole of this consistent with a bullet having passed through the body ?—Yes.

1033. Perhaps you could just point out where these two wounds were—the entrance and the exit wound ?—(Indicates.) The right lay there.

1034. And the other wound ?—There. (Indicates.)

10 1035. I think you also saw a boy by the name of Surekand ?—Yes, the same morning I saw a boy called Surekand.

1036. And did he suffer any injuries ?—Yes. He was admitted the same morning as the child. On the right arm he had an oval shaped wound.

1037. Perhaps you could point out on your own arm ?—(Indicates.) Outer side of right arm, about 3" above the elbow joint.

1038. And did you discover the cause of that wound ?—It was caused by a bullet.

1039. I think you confirmed that by an X-Ray ?—Yes, an X-Ray was taken the same morning.

20 1040. Is that the film ?—Yes, this is the film of the right arm of the boy (indicates bullet) and the bullet lies at the upper end of the bones of the forearm near the skin surface. The photograph has been taken on two planes—that is the side view and that is the front view.

1041. Was that bullet recovered ?—Yes, the same morning it was removed.

1042. I think Inspector Pratap was present ?—Yes, that is the officer I handed the bullet to.

1043. Would you say it was a bullet like that, or that that was the bullet ?—A bullet like that.

30 1044. In comparatively undamaged condition ?—Yes.

1045. There has been evidence that both these children were sleeping on the floor of the store or dwelling-house, and were sleeping when the shots were fired at the dwelling-house. Is there anything consistent with the theory that the same bullet might have passed through both children—passed through Ravindra and struck Surekand ?—Quite possible.

*XXd.*

40 *Chalmers* : 1046. This bullet doesn't appear to have touched any hard object, does it ?—There is a little dent on one side of it, or depression. Probably with some high-powered lens it might be possible to see some damage to the top of it. That is all I can see.

*Rice* : We have no questions.

*Sharma* : I have no questions.

*Re-Xn.* : Nil.

*Crown Counsel* : Would it be in order now to go into the question of continuing the examination of the witness Subramani ?

*Chalmers* : I have the authorities—the best I can find on that question. Unfortunately, we haven't the full reports, but the available brief references to the cases are here.

50 I would refer Your Honour to the Second Edition of Halsbury's Laws of England, Vol. 13, at p. 760. "By an 'adverse' witness is meant, . . .

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No. 22.  
Evidence of  
Dr. Menzies  
Llewellyn  
Macauley,  
P.W.16,  
4th  
September  
1945,  
*continued.*

Exhibit O.

Cross-  
examina-  
tion.



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Court of  
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*Prosecution  
Evidence.*

as, for example, his opponent in the case." That authority is founded on *Greenough v. Eccles*, Common Pleas, 1859. *Cockle's Cases & Statutes on Evidence*, 6th Ed., p. 317: "Although a party calling a witness may not discredit him generally . . . of a witness he himself produces." The Judge says in conclusion: "The section requires the Judge . . . that he has made inconsistent statements . . ."

*The Court*: I dare say that the Assessors would sooner be outside while this is going on.

Assessors retire.

*Crown Counsel*: I accept my learned friend's statement as to the law 10 which applies in this case, and admit that any application on the part of the Prosecution to cross-examine this witness or to put previous statements to him must depend on the finding that the witness is adverse. That is a matter entirely, of course, for Your Honour's discretion.

*The Court*: I did not understand that you wished to cross-examine him but that you wished to put the question of having made a previous statement to him.

*Crown Counsel*: That is all, Your Honour. But nevertheless, on the authority that my learned friend has quoted, it appears that Your Honour, before granting that permission to the Prosecution, should find that the 20 witness is adverse.

*The Court*: I don't know whether that is so or not. The law is not very clear about it.

*Crown Counsel*: There is a case quoted in Archbold to the opposite effect.

*The Court*: It seems to me that, before we come to any question of cross-examination, if, speaking roughly, a witness does not come up to his brief, there can be no question about it and it may be ascertained whether he says either that he didn't make the statement or that he did 30 make the statement and it wasn't true, or that he made the statement and now that it has been brought to his memory he confirms that it is true. And I think that is what should be done in this case. It is quite absurd to say that a witness should be brought into this Court and bluntly go back on his evidence and not be asked about it. So I do not give permission to cross-examine, but I do give permission to put the statement that he has made.

No. 23.  
Evidence of  
Subramani,  
P.W.13  
(continued),  
4th  
September  
1945.

No. 23.

EVIDENCE of Subramani—P.W.13—(continued from p. 47).

SUBRAMANI—continued.

*Xn. contd.*

40

1047. This morning you gave evidence concerning a visit you paid to Joseph's rice mill?—Yes.

1048. Which you said was a few days before last Christmas?—Yes.

1049. You went there with some paddy to have it milled?—Yes.

1050. And you mentioned the fact that there were several people there who were drinking?—Yes.

1051. You said they were conversing in English?—Yes.

1052. And that you didn't understand a word of what they said ?  
—Yes.

1053. You adhere to that ?—Yes.

1054. Did you make a statement to the police on the 15th February ?  
—Yes.

1055. Did you tell the police that you saw these people, Emmanuel Joseph, Rampersad, Hanif and Madre drinking ?

*Chalmers* : I submit that is a leading question.

*The Court* : He has to be reminded of what he said.

10 *Witness* : Yes, I stated that.

*C.C.* : 1056. And you mentioned that Emmanuel gave you something to drink ?—Yes.

1057. Did you say to the police (this is speaking of Emmanuel), "He said 'I will assault some day Chotabhai and revenge him' " ?—No, I didn't say that.

1058. You now say you never said that to the police at all ?—Yes.

1059. Now I think you also gave evidence at the preliminary inquiry in this case ?—Yes.

1060. That was on the 27th March this year ?—Yes.

20 1061. That was a bit over a month later after you made the statement to the police ?—Yes.

1062. Now you remember what you said there ?—What I have stated here to-day.

1063. And that is the evidence you gave on oath at the preliminary inquiry ?—Yes.

1064. Did you say there: "I heard Manu say that he would hit Chotabhai" ?—I didn't say that.

1065. You completely deny that too ?—I deny that completely.

30 1066. And can you offer the Court any explanation as to how this came to be recorded by the Magistrate at the preliminary inquiry ?

*The Court* : I don't think you can carry it any further.

*XXd.*

*Chalmers* : 1067. This statement my learned friend has referred to was made how many days after ? How did you come to make this statement ? Who came and asked you to make the statement ?—Some member of the C.I.D. Dept. in Suva.

1068. A C.I.D. constable came from Suva, did he—Nanka Singh, wasn't it ?—He was Suva police : I don't know his name.

1069. Did you volunteer this information ?—He asked me questions.

40 1070. Even if it is recorded that you did say such a thing, is it true—did you hear Manu say such things ?—No.

1071. It is not true ?—No.

1072. Was there any reason why, when you were at the rice mill that day that Manu should oblige you by letting you hear this ?—Was what ?

1073. Is there any reason why he should have told you that he wanted to assault Chotabhai ?—He didn't say anything of the kind.

*Rice* : No questions.

*Sharma* : No questions.

*C. C.* : No questions.

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Evidence.*

No. 23.  
Evidence of  
Subramani,  
P.W.13  
(continued),  
4th  
September  
1945,  
continued.

Cross-  
examina-  
tion.

EVIDENCE of Basil Frederick Hooper—P.W.17.

BASIL FREDERICK HOOPER. Sworn.

Prosecution  
Evidence.

Superintendent of Police.

No. 24.  
Evidence of  
Basil  
Frederick  
Hooper,  
P.W.17,  
4th  
September  
1945.

1074. I think you got a report from Mr. Spencer?—Yes, about 4 a.m. on the 4th February.

1075. You would be at Lautoka?—I was at Lautoka, yes.

1076. And did you go to Mulomulo?—I proceeded to Mulomulo later in the morning after giving certain instructions. I proceeded to the store of Chotabhai Patel. There I found bullet holes on the western side of the store. 4 bullet holes on the side of the store; one bullet hole through the floor leading into the back room. I lined up these holes by means of long reeds, and instructed Const. Epi to proceed to a certain spot in front of the mango tree indicated on this plan. The mango tree in question was No. 1—opposite No. 1 on the plan. I followed Const. Epi, and after searching for a short time he told me that he had found some empty shells. I was searching actually a few yards below where he was. I assisted him then in the search and 4 empty shells were found. These were found at the spot marked 1 on the map. 10

1077. And that was the spot indicated by lining up the bullet holes?—Yes. These are the empty cartridge cases that were picked up. 20

1078. Did you receive a bullet from Inspector Pratap?—Yes. On the 5th February Inspector Pratap handed me a bullet. Later that same day, going to Nadi I gave that bullet to Asst. Supt. Spencer. That is the bullet.

1079. I think it was on the 14th February that you fired some test rounds?—Yes. From 11 different carbines. Two shots were fired from each carbine.

1080. All of this type?—Yes. Procured from the Air Base. The numbers of the carbines are indicated on the envelopes in which the empty cartridges were placed. The date also was marked on the envelope. On the 21st February I handed these exhibits to Asst. Supt. Halstead in Suva. 30

1081. I think it was on the 6th February that you took a statement from Emmanuel Joseph?—Yes.

1082. In what circumstances did he make that statement?—The statement was taken from him at Mulomulo. A voluntary statement as to his movements on the night of the 3rd February. He was not then cautioned. The statement was taken in the course of investigations and some of it was as a result of questioning.

1083. Does he speak good English?—He speaks good English. The statement was given in English and he signed it after it was read back to him, wishing to make no alterations. 40

C.C. : I put that statement in.

(Statement read.)

Exhibit CC.  
Cross-  
examina-  
tion.

Xxxd.

Chalmers : 1084. I put it to you that all these statements in which the name of Rampersad appears were made in answer to questions asked by you in connection with Rampersad?—No.

1085. Was Rampersad then in custody?—No.

1086. Was he at the station?—Rampersad was never in custody. 50

1087. Are you sure he was never detained at the Police Station?—He was never in custody.

1088. Was he never detained at the Police Station?—I couldn't say.

1089. Who was in charge of the case?—I was.

1090. Can you see any reference in your files to Rampersad being brought to the station? He was arrested on Monday, 5th, and released about 6 p.m. on Wednesday, the 7th?—At 2.55 p.m. on the 5th February statement was taken from Rampersad.

1091. Where was the statement taken—at the Police Station?—  
10 I think so, yes. There is no record here as to his being in custody. I can say without records that he was not in custody.

1092. Was he detained at the Police Station and released on the 7th and told he could go home?—No.

1093. So that between the 5th and the 7th he was not at the Police Station?—I wouldn't say he was not at the Police Station. We took a statement from him on the 5th.

1094. It was after that statement that you saw Joseph, on the 6th?—No. The statement from Joseph was taken before Rampersad's statement.

20 1095. What was the date of Rampersad's statement?—That was on the 6th. From what I remember, Rampersad came back with us from Mulomulo on the 6th after I had begun that statement from Joseph.

1096. Have you got the exact date on the statement when it was taken?—Which statement?

1097. Rampersad's statement. I thought you said the 5th?—That is so.

1098. Then it would be taken before Joseph's statement?—Yes. One of them was taken. If I remember correctly, Rampersad came back with us from Mulomulo to Nadi after I took that statement from Joseph.

30 1099. Can you give us any account of Rampersad's movements at all from the time he went from the station?—No, I am afraid I can't.

1100. What was he doing at Mulomulo?—He lives there.

1101. Was he taken by the police van to Mulomulo and then brought back again?—I couldn't say.

1102. Had you seen Rampersad's statement before you took that statement from Emmanuel Joseph?—One taken on the 5th February and the other one on the 7th February.

1103. From Rampersad?—Yes.

40 1104. Were they both taken at the station?—I presume they were. I couldn't say whether they were or not.

1105. Emmanuel Joseph had made two very full statements giving all the details of his movements previously—one to Constable Ramcharitra and one to Mr. Spencer—you knew that, did you?—Yes.

1106. The result of certain investigations made by Mr. Spencer?—I don't know. I wasn't there when they were taken.

1107. What necessity was there to take this other statement from him on the 7th?—I was still conducting inquiries.

50 1108. I put it to you that practically the whole of this was a searching examination you made of the accused?—What do you mean by "searching examination"?

1109. You put searching questions to him to try and find out all he knew—who he had met and what he had done?—Yes, details.

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No. 24.  
Evidence of  
Basil  
Frederick  
Hooper,  
P.W.17,  
4th  
September  
1945,  
*continued.*  
Cross-  
examina-  
tion.

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Supreme  
Court of  
Fiji.*

1110. And did you put it to him whether he had met Rampersad or not that night or at any time?—I don't think so. I think that came from him.

1111. You can't be sure?—No.

*Prosecution  
Evidence.*

1112. Because this statement that you took was to a great extent a repetition of previous statements, wasn't it?—No. I don't think it was actually. In his statement to Mr. Spencer I don't think he made any reference at all to meeting Madre. There is a great deal of difference between Mr. Spencer's statement and mine. On page 2 of the one Mr. Spencer took: "I don't remember meeting anyone whom I knew 10 between the Sangam Temple and my house."

No. 24.  
Evidence of  
Basil  
Frederick  
Hooper,  
P.W.17,  
4th  
September  
1945,  
*continued.*  
Cross-  
examina-  
tion.

1113. Did you ask him all these questions?—I asked him for a detailed account of his movements and questioned him. And also he made no reference in his statement to Mr. Spencer about Mandatt meeting him at Lalji's store on Sunday.

1114. He never made any statement about meeting Rampersad, did he?—No.

1115. And in fact you took a statement from Rampersad?—I didn't take a statement from Rampersad.

1116. A statement was taken from Rampersad and I put it to you 20 that that statement says nowhere that he met Mandatt?—I don't understand.

1117. Have you got the statement from Rampersad?—Which one are you referring to?

1118. The one you took?—I didn't take any.

1119. The one on the 5th. Does he make any mention in that statement to seeing Emmanuel Joseph?—When.

1120. That night?—He said he didn't visit Joseph's house on the 3rd February, day or night.

1121. Can you account for how it is said that the accused should 30 mention Rampersad's name at all unless it was put to him?—It was certainly not put to him. By me?

1122. Yes.—No.

1123. You never asked him any questions about Rampersad at all?—No.

1124. Do you know that after he was removed in custody to the Lautoka Police Station—do you know that he asked to see the Superintendent of Prisons, Mr. Baker?—Who was this?

1125. Emmanuel Joseph?—When he was removed to the Lautoka Police Station? 40

1126. Yes.—No.

1127. You didn't know that?—No.

1128. Did you know Mr. Baker sent Inspector Pratap to see him?—Mr. Baker didn't send Inspector Pratap to see him.

1129. Did you know Inspector Pratap went to see him?—I sent Inspector Pratap to take a statement from him when he was at the prison, at Natabua gaol.

1130. In charge of the prison authorities?—Yes.

1131. How did you come to hear that he wanted to make a state- 50 ment?—Mr. Baker telephoned me that he wanted to make a statement.

1132. Did he tell you that he wanted to make the statement to a District Officer and not a police officer?—It came from Mr. Baker and Mr. Baker is in charge of the prison.

1133. You have seen that statement he made to Inspector Pratap ?  
Yes.

1134. I will just refer you to part of that statement. He made a statement on the 14th February to Inspector Pratap at Natabua Goal ?  
Yes.

1135. I will read the statement out to you, Mr. Inspector, because I want to ask you some questions about it. (Reads statement Exhibit T.) Is that statement with reference to you correct ?—No. The third statement is the one I just read, at Mulomulo. That was taken in the presence  
10 of Sgt. Ahmed, S/I Lal Singh ; I forget who else was there. He was sitting on a kerosene box beside me. That was the third statement.

1136. Had he not been before that in the custody of one of your C.I.D. men from Suva ?—The C.I.D. at that time had not arrived from Suva.

1137. At a subsequent time shortly after that—was it the next day ? —he was taken to the Police Station to make another statement at which you were present ?—Would that be the fourth statement ?

1138. Yes. Now in regard to this other statement, this is what S/I Lal Singh says in his evidence-in-chief in the Lower Court : “ The  
20 statement taken from Emmanuel Joseph on the 8th February was taken at 5 p.m. Finished taking it at 6 p.m. I think he had made 3 statements prior to this. Can’t remember if Rampersad was on the station when I took this statement. He was brought to the station, don’t remember when. I knew Emmanuel Joseph was a teacher, can speak and write perfectly good English. He didn’t ask permission to make his statement in his own hand, I didn’t invite him to. He was not then under arrest, he was arrested the same night about 9 or 9.15 p.m. When the statement (Ex. X) was made Supt. Hooper and A.S.O.P. Spencer were present.”  
30 Is that correct ?—That is correct.

1139. “ It was taken about 5 p.m. and he had been brought to the station that day ” ?—Yes.

1140. “ Questions were put to him by the officers and myself ” ?—That is so.

1141. “ The statement was taken in answer to questions put to him.” ?—Yes.

1142. “ He was interrogated before anything was written.” Is that version given by Lal Singh correct ?—Yes.

1143. And the procedure was this, I take it : that each of you would be there firing questions at him while Lal Singh was writing it down—  
40 would that be correct ?—No.

1144. Well you all had a hand in asking him questions ?—Mr. Spencer and myself asked him a few questions, but it wasn’t done in the manner you have indicated. Questions were more or less put to clear up points. After he had made a certain statement then we asked him questions on it to clear it up.

1145. I will give you his version of it, and you can say whether it is correct or not. He was taken into the police room and there were the following members of the police there : Supt. Hooper, Asst. Supt. Spencer, Const. Howsil, Const. Nanka Singh, etc., all present ?

50 *The Court* : Which statement is this ?

*Chalmers* : The fourth statement—on the 8th.

*Witness* :—That’s right. They were at the station.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 24.  
Evidence of  
Basil  
Frederick  
Hooper,  
P.W.17,  
4th  
September  
1945,  
*continued.*  
Cross-  
examina-  
tion.

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examina-  
tion.

1146. Were they all present at the office during the time this statement was being taken?—No.

1147. Further: “Sub-Inspector Lal Singh sat at the table and was writing something, while others were asking me questions all the time.” I have already explained that Sub-Inspector Lal Singh was taking the statement and when it came to an ambiguous point or something perhaps which may have been left out then he was asked about it.

1148. “In the meantime, Nanka Singh C.I.D was threatening me with his fist, saying ‘Have you got a pistol? Where is it, because A—— and others have told us that you have a pistol.’” ?—I didn’t hear that. 10

*To Court:* 1149. Was Nanka Singh present when the statement was being taken?—Part of the time.

1150. You were present the whole of the time, were you?—Yes.

1151. And Nanka Singh was present part of the time?—Part of the time, from what I can remember. There is a room adjoining where Mr. Spencer sits, and they were working in there as well and coming and listening to what he had to say.

1152. Where was the statement being taken?—In Mr. Spencer’s room.

1153. And you were in the other room?—No, I was in Mr. Spencer’s room. 20

1154. And you were there all the time?—Yes.

1155. And Nanka Singh was coming in and out?—Yes.

1156. Well, in your presence had he threatened this man at all?—Not at all.

*(Chalmers):* 1157. While we are on this point, Lal Singh is not a person well versed in English writing, is he?—Well, he is not as grammatical as some.

1158. Seeing there were two European officers—yourself and Inspector Spencer—there, why didn’t one of you take the statement?—Because I considered that he was capable of writing down the statement in my presence. I was there and saw what he wrote. 30

1159. The accused himself speaks English perfectly and writes English perfectly, does he not?—Yes.

1160. Well, if he wished to say anything why was he not asked to write his own statement?—It is a practice which is not customary and is not practised in the Police Force.

1161. Why?—It is very obvious why.

1162. I make many a statement myself in connection with——

*The Court:* The police were making inquiries. They wanted to satisfy certain points of their own. They didn’t want to write just what he wanted to. 40

1163. I will just go on with my instructions then. “This man Nanka Singh said, ‘Where is the gun—where is the pistol—or else I shall break your face.’” Did you hear him say that?—No.

1164. Then Joseph replied, “I have not a pistol; I don’t know anything about a pistol; it is a lie; they say I have a pistol; I have not at all.” Did he say that?—No, I didn’t hear him say anything of the sort.

1165. “Then Nanka Singh spoke to me very angrily, saying ‘You are a liar’ and threatening me with his fist—holding up his fist in front of my face.” You didn’t see that?—No. 50

1166. "Saying 'You have a pistol and you have hidden it in the chaff'" ?—Is this supposed to have been when the statement was being written.

1167. Just before the statement was being written, I understand ?—Not when the statement was being written.

1168. No ?—I don't know anything about that. I wasn't present.

1169. Said he was interrogated before the statement was written, but you were all present at the time ?—No, I wasn't present.

1170. Was he interrogated before the statement was taken ?—Yes.

10 1171. How long was he interrogated ?—I couldn't say for how long. I should say from memory now it was roughly about half an hour.

1172. And you suggest that throughout the whole of that time no threats or anything were made to him ?—No. In view of the investigations of Nanka Singh of the C.I.D. and S/M Ahmed from Lautoka, in view of what I had seen them do on previous occasions, I would say that they did not threaten—it was more on the other line.

1173. After those two C.I.D. men had arrived—Housil and Nanka Singh—there was a complete change in all the statements, was there not ? Would I be correct in saying that ?—No, that is not so.

20 1174. Will you give us definitely when they arrived ?—4 p.m. on the 6th.

1175. And the statement you took at Mulomulo was taken on the 6th after they arrived ?—No.

1176. Before they arrived ?—Yes.

1177. Statements taken from the other accused. Were they taken after they arrived or before they arrived—the last statements taken from the accused ?—Which accused ?

1178. These two accused (indicates)—not Joseph ?—They were taken afterwards.

30 1179. And the statement that I am referring to now—this fourth statement of Emmanuel Joseph—that was taken after they arrived at the police station ?—Yes.

1180. And those statements were a complete reversal, weren't they, to a great extent, of what they had previously said ?—Joseph, you mean ?

1181. Joseph and the other two ?—We hadn't started on the other two accused until the 6th. I brought Mandatt with Emmanuel Joseph from Mulomulo on the afternoon of the 6th. The first statement was taken then from Mandatt on the night of the 6th.

40 1182. When the C.I.D. men had arrived ?—Yes. No previous statements had been taken from Mandatt or Rampratap.

1183. And these statements that were taken after the C.I.D. arrived, were they not a complete change ?—The statements of whom ?

1184. Weren't the accused at the station when the C.I.D. men arrived ?—Not the three accused, no.

1185. Which of the accused were at the station when the C.I.D. men arrived ?—Ten minutes before they arrived, Joseph and also Mandatt—I don't think Joseph was there, from what I can remember.

1186. But the C.I.D. men were present when the statement was being taken ?—Yes, off and on. That is the fourth statement.

50 1187. In connection with this Rampersad, my instructions are that with regard to the statement you took from him you put it to the accused

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tion.

this way : “ Did Rampersad come to you last night to take you with him to shoot ? ” Did you put that question to him ?—No.

1188. Then he replied, “ No, Rampersad didn’t come at my home : I don’t know anything about Rampersad : I was sleeping in my bed and didn’t go with anyone. Then Mr. Hooper said, ‘ Yes, he did come.’ and I said, ‘ No, he didn’t come.’ and the Mr. Hooper called out in bad temper and abused me and said, ‘ He did come to your place ’.” ?—What statement is this ?

1189. This is the statement you took on the 6th ?—No, because there is no place possible where I could have got that information from. There is his statement here on the 5th where he merely gives a detailed account of what he did on the Saturday afternoon, Saturday night and Sunday morning. 10

1190. Then why was Rampersad being questioned ?—He was among the others that were questioned in the vicinity.

1191. Was there any suspicion attaching to him ?—Not anything in particular.

1192. You weren’t making inquiries at all about where he was on the night ?—Yes, we did.

1193. Then why were you wanting to find out about Rampersad ?— On account of some animosity there was between the storekeeper and Rampersad. 20

1194. And of course you wouldn’t think of asking the accused whether he knew anything about the animosity between Chotabhai and Rampersad ? —From what I can remember Rampersad is a friend of the accused Joseph.

1195. He would be the man from whom you could get information about Rampersad, wouldn’t he ?—Yes, and the accused Joseph may have been implicated in it as well, being a friend.

1196. I am putting it to you that this that appears in the statement about Rampersad is all the result of the questions you made him answer ? —That is not so. 30

1197. Did you ask him any questions about Rampersad ?—Not that I remember, and I didn’t see any reason why I should.

1198. Well, when he was giving this long-winded story about Rampersad, didn’t you ask him any questions about it at all ?—The information he gives us about Rampersad is all new.

1199. And at the same time you were following up Rampersad’s movements, weren’t you ?—No. We had nothing to the contrary after his statement that he gave us on the 5th. We had nothing to the contrary on that at all. 40

1200. But I thought you said there was something in the way of a motive as far as Rampersad and Chotabhai were concerned ?—No, we had heard that there was a disagreement at some time or other ; that is why the statement was taken from him.

1201. I put it to you that in interviewing Emmanuel Joseph you wanted to get out all that he knew about Rampersad ?—No. I was more concerned with Joseph’s movements.

1202. But you had had a very complete and detailed account of his movements. Couldn’t be more complete ?—You are referring to the statements on the 4th, I presume. 50

1203. You took a statement on the 6th ?—Yes.

1204. But the statement he made to Mr. Spencer on the 4th was a very full and complete statement ?—It was not. It was far from complete.

1205. What special points were you trying to get from him?—As I said before, a more detailed account of his movements. I pointed out earlier in cross-examination there were several things that he didn't mention in the statement to Mr. Spencer which I got from him in this statement which I took.

1206. And was one of those things his statement about Rampersad? —It wasn't. He mentioned Rampersad himself.

1207. And told something about Rampersad that is obviously false? —I thought it was. I still think it is.

10 1208. And yet you can't suggest any reason why he should make that obviously false statement which could have been checked up on?—What do you mean? His movements, or motives, or what?

1209. This boy Rampersad had been at the station on the 5th and on the 7th, and statements had been taken from him. What I am trying to get at is this: why should this man go and make a statement that is obviously false about somebody?—That is continually being done.

20 1210. Well, what was this trouble you heard between Rampersad and the storekeeper?—From what I can remember, it was about a horse galloping. Rampersad galloped a horse past Chotabhai Patel's store and nearly hit one of his children. I think it was something like that. There was some argument between the storekeeper and Rampersad.

1211. There was no suggestion of Rampersad having threatened to shoot Chotabhai? You never heard anything about that?—I don't remember hearing anything about that.

1212. Now when the accused was at the station after being arrested, in whose custody was he? When they are kept at the station in whose custody are they—in the custody of the police or of the gaol warder?—They are in our custody. In the custody of the police.

30 1213. Who have access to them at any time?—They are in our custody.

1214. My final question is this. There is an officer investigating this case and four only or five statements were taken from Emmanuel Joseph, all by different officers?—Yes.

1215. Can you give any reason for that?—I think it is rather a good thing. One officer may see one point where another one doesn't. It depends on who is available at the time the statement is required to be taken.

40 1216. If there is any information available, you ask a few questions and you note them. Isn't that the correct procedure?—You don't get long-winded statements like this?—No. My methods are not that way. My methods of investigation are long and detailed statements.

1217. What is the object? To try to trap these people into saying something they shouldn't say?—No, it is just a matter of details which are so essential in matters of this nature.

1218. If you have a person who has told you everything there is to tell, do you keep on at him getting statements from him?—If I have reason to believe he is not telling the truth.

1219. You keep on until you get something that suits your case?—Not at all.

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tion.

4.00 p.m. Adjourned.

*In the Supreme Court of Fiji.* 9.30 a.m., Wednesday, 5th September, 1945.

THIRD DAY.

Supt. HOOPER—*continued.*

Prosecution Evidence.

*XXd.*

No. 24.  
Evidence of Basil Frederick Hooper, P.W.17, 5th September 1945, *continued.* Cross-examination.

*Rice* : 1220 : You told my friend, Mr. Chalmers, in cross-examination yesterday, that when you have reason to believe that a man is not telling the truth you adopt the method of getting long, detailed statements. You remember saying that ?—Yes.

1221. May one take it that that is why you did that in the case of Emmanuel Joseph ?—Yes. 10

1222. In short, because you believed he was not telling the truth ?—It was very obvious.

1223. And of course during the course of the investigation you saw quite a lot of the accused Emmanuel Joseph ?—Yes.

1224. And also of my client Mandatt ?—Yes, that is so. I was the first to interview Mandatt.

1225. Would it be fair to say that the conclusion you came to was that any part Mandatt might have had in this affair was a very minor one compared to Manu's ?—The opinion I formed was that Mandatt was merely a tool in this crime. 20

1226. And a tool in the hands of whom ?—In the hands of Joseph.

*Chalmers* : Can we have opinions from witnesses ?

*The Court* : No. The witness is here for facts, not opinions.

*Rice* : As Your Honour pleases.

1227. You told us yesterday that Mandatt made only one statement ?—Yes, I think so. Before he was charged.

1228. He made a short one when he was charged, certainly, but in the course of investigation he made only one statement ?—That is so.

1229. And compared to Manu, he is a bit of a fool ?—I take him to be.

*The Court* : Aren't we getting on to dangerous ground again ? 30

*Rice* : Perhaps so. I will leave it at that.

*Xad.*

*Sharma* : 1230. Regarding the accused Rampratap. He gave three statements, as you know ?—Altogether ?

1231. Yes ?—Yes, I think he did.

1232. And were you present when any one of those statements was taken from the accused Rampratap ?—I don't think so, no.

No. 25.  
Evidence of Nanka Singh, P.W.18, 5th September 1945.

No. 25.

EVIDENCE of Nanka Singh—P.W.18.

NANKA SINGH. Sworn. 40

Constable No. 493.

1233. I think you are a member of the C.I.D., in Suva ?—Yes.

1234. And so you are normally stationed at Suva ?—Yes.

1235. I think, however, you were sent round to Nadi district in connection with this shooting of Chotabhai's store ?—Yes.

1236. And I think it was on the 6th February that you interviewed the accused Mandatt ?—Yes.

1237. And did he tell you something as a result of which you went to Tunalia with him ?—Yes.

1238. I think Supt. Hooper, SI. Lal Singh and a couple of constables were there as well ?—Yes.

1239. And where did you go at Tunalia ?—To a canefield.

1240. And do you know whose canefield it was ?—I am not sure. I think it was Rampratap's brother's canefield.

10 1241. Do you know where Rampratap lives ?—In Tunalia.

1242. Do you know where his house is ?—Yes.

1243. How far would it be from this canefield ?—About half a mile.

1244. And I think you looked for something in that canefield ?—Yes.

1245. Did you find anything ?—We found a gun.

1246. How was this gun placed ?—It was placed in a row of cane, in a tin case. This is the tin case. Covered with soil.

1247. Was Mandatt still with you ?—Yes, he was there.

1248. Did he have anything to say ?—He said " This is the gun."

20 —Yes. 1249. I think you took a statement from him in writing afterwards ?

1250. Was that to the same general effect as what he had told you before you went out ?—Yes.

1251. Was it a voluntary statement ?—Yes.

1252. Was he threatened in any way or promised that he would gain any advantage from making this statement ?—No.

1253. Did you caution him before you took the statement in writing from him ?—Yes.

1254. And he spoke in Hindustani, did he ?—Yes.

30 yes. 1255. And you wrote down what he said in Hindustani ?—Script,

1256. Did you read it back to him afterwards ?—Yes.

1257. Did he seem to understand it and approve it ?—Yes.

1258. And did he sign it in Hindustani ?—Yes.

1259. Is that the statement ?—Yes.

*In the  
Supreme  
Court  
of Fiji.*

*Prosecution  
Evidence.*

*No. 25.  
Evidence of  
Nanka  
Singh,  
P.W.18,  
5th  
September  
1945,  
continued.*

*Exhibit Q.*

(Statement read.)

1260. I think it was early on the morning of the 7th that you charged Mandatt with this offence ?—Yes.

1261. Then you arrested him ?—Yes.

1262. And cautioned him ?—Yes.

40 Yes. 1263. And did he then make a brief statement in Hindustani ?—

1264. That is the statement ?—Yes.

1265. And you read it back to him before he signed it ?—Yes.

(Statement read.)

1266. Now this happened on the night of the 6th and in the early morning of the 7th ?—Yes.

1267. I think you then interviewed Rampratap ?—Yes.

1268. And you obtained a statement from him ?—Yes.

1269. Was that a voluntary statement ?—Yes.

50 1270. Did you threaten him or promise him anything ?—No.

- In the Supreme Court of Fiji.*  
*Prosecution Evidence.*  
 No. 25.  
 Evidence of Nanka Singh, P.W.18, 5th September 1945, continued. Exhibit S.
- No. 1271. Do you know if he was threatened or promised anything?—  
 No. 1272. Did you caution him before he made the statement?—Yes.  
 1273. He wrote it down in his own language?—Yes.  
 1274. And you read it back to him?—Yes.  
 1275. Did he seem to understand it and approve of it?—Yes.  
 1276. And he put his thumb-print on it?—Yes.  
 1277. Before he made this statement he had been shown the gun?—  
 Yes.  
 1278. Is that the statement?—Yes. 10  
 (Statement read.)  
 1279. With reference to that statement by Rampratap, before he made that did you inform him in any way of what Mandatt had said or show him Mandatt's statement?—No.  
 1280. I want you to identify that rifle in the tin box?—This is the gun, sir.  
 1281. And was that cloth round it at the time?—The gun was left in it.  
*Chalmers* : No questions.  
*Rice* : No questions. 20  
*Sharma* : No questions.

No. 26.  
 Evidence of Lal Singh, P.W.14 (continued), 5th September 1945.

No. 26.

EVIDENCE of Lal Singh—P.W.14—(continued from p. 48).

LAL SINGH. Sworn.

Sub-Inspector of Police.

1282. I think at the beginning of this year you were stationed at Nadi?—Yes.  
 1283. You are now stationed at Ba?—Yes.  
 1284. I think you went out with Const. Nanka Singh and Mandatt on the 6th February of this year?—Yes. 30  
 1285. And Mandatt took you, I think, to Tunalia?—Yes.  
 1286. Then where did he take you in Tunalia?—To Rampratap's canefield.  
 1287. And what happened there?—Mandatt showed the place and said "Gun somewhere here." Mandatt and all the police went to search. After searching Constable Mesulame called out "Something here." I and other policemen went to him.  
 1288. Just whereabouts was that?—In the canefield about ten yards. About half a chain from the edge of the canefield.  
 1289. What did you find there?—I saw a gun hidden alongside the 40  
 cane row under the soil.  
 1290. Hidden under the soil was it?—Yes. Also in a tin, and wrapped in a bag round the gun.  
 1291. Was Mandatt there at the time?—Yes.  
 1292. Did he have anything to say about it?—Yes.  
 1293. What did he say?—He said "We used this gun and after using it hide it here in this place." "This is the gun been used and after we used we hide it."

1294. Perhaps it would be better if you gave the words in Hindustani ?  
—(Translation). “ This is the gun that we had used, and after using same  
we hid it here.”

*In the  
Supreme  
Court of  
Fiji.*

1295. Now I suppose the police party took charge of the gun ?—Yes.

1296. And everything was taken to the police station ?—Yes.

*Prosecution  
Evidence.*

1297. Was Rampratap there when the gun was brought to light ?—  
Yes.

1298. Did Rampratap have anything to say ?—He denied all  
knowledge of the gun.

*No. 26.  
Evidence of  
Lal Singh,  
P.W.14  
(continued),  
5th  
September  
1945,  
continued.*

10 1299. And I think Mandatt made a statement to Const. Nanka Singh  
when you got back ?—Yes.

1300. Now the next day, 7th, did you go anywhere ?—Yes.

1301. Where did you go this time ?—To Mulomulo with the accused  
Mandatt, Asst. Supt. Spencer and police party.

1302. And what happened at Mulomulo ?—Mandatt said he stood  
under a mango tree while Emmanuel Joseph went a chain or half a chain  
towards Chotabhai's store and fired shot towards Chotabhai's store.

1303. Did he show you various places there ?—Yes.

20 1304. Perhaps you would refer to the plan then. Would you point  
out on the plan the various places pointed out to you by Mandatt, and  
whatever he had to say about them ?—Point No. 2.

1305. He took you to point No. 2, did he ?—Yes.

1306. What did he have to say about that ?—Mandatt stood under  
the mango tree : Manu Joseph went a chain or a half chain towards  
Chotabhai's store. There he fired shot at Chotabhai's store.

*The Court :* 1307. Who went half a chain away ?—Emmanuel Joseph.

1308. And where did he go to ?—Towards Chotabhai's store.

1309. Is that point 1 on the map ?—Yes. Then he showed me point 6.

30 *C.C. :* 1310. What did he have to tell you about point 6 ?—He  
said Emmanuel Joseph fired Lalji's store from that place.

1311. Did he tell you anything about the locality ?—Yes. At point 5  
he said he tied up his horse.

1312. Did he tell you anything else about his movements or anyone  
else's movements that night ?—No.

1313. Well now, that was on the 7th February ?—Yes.

1314. Did you interview Rampratap at all ?—Yes.

1315. Was that after Mandatt had shown you these places and told  
you these things ?—Yes.

40 1316. Was Rampratap there when Mandatt showed you all these  
places ?—No.

1317. Well now, as a result of what Mandatt said to you, did you go  
to the same spot with him ?—Yes.

1318. And what happened on this occasion ?—Rampratap told me  
that on No. 2 he stood there.

*Sharma :* I wish to object to that evidence on the ground that I mean  
to challenge the validity of the statement that Rampratap made to  
Inspector Lal Singh, and this evidence will be part of the statement which  
I intend to attack.

50 *The Court :* We had better leave it out until we settle the question  
of the statement.

*C.C. :* 1319. Did you take a statement from Rampratap relating  
to all this ?—Yes.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 26.  
Evidence of  
Lal Singh,  
P.W.14  
(continued),  
5th  
September  
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continued.

1320. Was that before he went to Mulomulo with you, or afterwards ?  
—Before.

1321. Whereabouts did he make this statement ?—

*Sharma* : I would object at this stage because that would be part of my objection. The locality where the statement was made would be part of my objection.

*The Court* : We have to have the circumstances under which the statement was made to decide whether it is admissible or not.

*Note*.—Questions 1322 to 1415 to this witness omitted by consent.

NANKA SINGH re-called. 10

Questions 1416 to 1445 omitted by consent.

LAL SINGH—*continued*.

Sub-Inspector of Police.

*Xn. contd.*

1446. I think you also took a statement from the accused Emmanuel Joseph ?—Yes.

1447. That was on the 8th February ?—Yes.

1448. Can you remember what time that was taken ?—Began at 5 o'clock ; ended about 6.30.

1449. And that was taken at the Nadi Police Station ?—Yes. 20

1450. Had Emmanuel Joseph been arrested then ?—No.

1451. Did you know that he had made previous statements ?—Yes.

1452. Why did you take a further statement from him ?—I inquired from him and on inquiry he said “ I want to give a true statement.”

1453. You mean you were inquiring about this matter and he said he wanted to give a true statement ?—Yes.

1454. And did you caution him ?—Yes.

1455. Did you ask him questions during the course of this statement ?  
—Yes.

1456. He spoke in Hindustani ?—In English. 30

1457. And you wrote it down in English and read it back to him ?—  
Yes.

1458. And did he seem to understand it all right ?—Yes.

1459. And approve of it ?—Yes.

1460. And signed it in your presence ?—Yes.

1461. Would you say this was a perfectly voluntary statement ?—  
Yes.

1462. Is that the statement ?—Yes.

I put that in, Your Honour.

Exhibit X.

(Statement read.) 40

1463. And I think it was on the night of the 8th February that you arrested Emmanuel Joseph ?—Yes.

1464. And did you charge him with the murder of Ravindra ?—Yes.

1465. Did he make a brief statement in English ?—Yes.

1466. Which you wrote down ?—Yes.

1467. And did he sign it ?—Yes.

1468. Is that the statement ?—Yes.

Exhibit Y.

(Statement read.)

XXd.

*Chalmers* : 1469. This statement refers to the fact that the conversation took place in a lorry garage. That lorry garage was part and parcel of the rice mill—all one building—the rice mill and the place where the car was parked is all part of the one building—under the same roof?—There is another room too—sleeping room.

1470. They are all under the one roof—garage, sleeping room, and on the other side rice mill?—Others are sleeping separate from the rice mill.

10 1471. There is a bure?—Yes.

1472. And at that time the mother and the children were living in the bure; Mrs. Joseph, her daughter and sons?—Yes.

1473. And Emmanuel and Hanif were sleeping in the lean-to on the rice mill?—Yes.

1474. The room in which Emmanuel slept is completely enclosed, I think, except for a door and a push-out window—completely enclosed with iron?—Yes, that's right.

1475. Did you see inside the room and see the beds in the room?—Yes.

20 1476. Two beds in the room?—Yes.

1477. Now did you take this statement under instructions from Mr. Hooper?—That's right.

1478. And is it not a fact that this man Rampersad had been brought to the station on the Monday? The shooting took place on the Sunday and Rampersad had been brought to the station on Monday, the 5th?—Yes.

1479. In fact he was the first person that the police took to the station in connection with this matter, wasn't he?—There were three.

30 1480. But he was the first person? I am asking not as to how many were taken but was he the first person to be taken to the station?—No.

1481. Who were the three that were taken to the station?—Mohammed Hanif, Achudan and Rampersad.

1482. And a statement was taken from Rampersad on the 5th?—Yes.

1483. And is it a fact that he was kept at the station until the 7th?—No.

1484. Was he taken on the 7th by the police to Mulomulo and brought back to the station on the 7th?—I don't know that.

40 1485. Can you find out from your records? I have tried to find out from Mr. Hooper about the movements of these people and I don't seem to be able to get any information at all. Can't you find out from the police record?—I remember a statement from him on the 5th.

1486. Have you no record in your record of action when he came to the station, when he left the station, and so forth?—I don't know.

1487. Who keeps the record?—If I take a statement from someone I put down—I take statement from so-and-so. And if someone else does it he puts his own entry.

1488. Can you find out when this man Rampersad was at the station and who he was seen by?—I saw him on the 5th.

1489. Did you see him again?—Again on the 8th.

50 1490. Where?—At the station.

1491. Do you know where he was between that time?—He was not at the station. I saw him only once in February at the station.

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Court of  
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*Prosecution  
Evidence.*

No. 26.

Evidence of  
Lal Singh,  
P.W.14

(continued),  
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continued.

Cross-  
examina-  
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1492. If evidence is called to show that he was brought up to the scene of the shooting on Wednesday, the 7th—brought up in the police van and taken back on Wednesday, the 7th—would that be correct?—I don't know.

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1493. Were you not in the station on the 7th?—I was in the station then.

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Evidence of  
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(continued),  
5th

1494. And did he not accompany you in the police van from the station on the 7th to Mulomulo and come back with you?—I don't remember. I don't know.

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1495. Well, a statement was taken from him anyway on the 7th, 10 was it not?—

*continued.*

*The Court*: I think Supt. Hooper said a statement was taken from him on the 7th.

Cross-  
examina-  
tion.

*Chalmers*: 1496. A statement was taken from him on the 7th—do you know who that statement was taken by?

*Crown Counsel*: Rasul Buksh.

*Chalmers*: 1497. And the fourth statement made by the accused Emmanuel Joseph, Ex. X, was taken on the 8th February?—Yes.

1498. Now inquiries were being made about Rampersad's movements, were they not?—Yes. 20

1499. And suspicion attached to him?—Yes.

1500. And you were following about his movements?—Yes.

1501. And was it in connection with Rampersad's movements that this interrogation of Emmanuel Joseph took place on the 8th?—No.

1502. I would like you to tell me exactly how it came about. You say instructions were given you by Supt. Hooper to take this statement on the 8th. I would like you to tell the Court exactly what took place from the time Emmanuel Joseph came into the room and who was present?—I and Sgt. Ahmed were making inquiries from Emmanuel Joseph.

1503. Whereabouts?—In the police office. 30

1504. Just the two of you?—No.

1505. Who were all making these inquiries?—Sgt. Ahmed, Const. Nanka Singh, myself and Emmanuel Joseph. They were in my office.

1506. And you were interrogating him there?—Yes.

1507. What were some of the questions?—We were asking him to tell the truth. "The sooner you tell the truth, the better."

1508. In fact you were persuading him to make another statement?—No.

1509. What were you asking him to tell the truth for?—About the story of what happened in the shooting. I said "All right you give the 40 true statement now."

1510. How long was this interrogation going on in your office?—About 5 minutes—10 minutes.

1511. I would like to have more details of this interrogation?—We didn't put any other questions. We asked him about Madre's statement. I told him what Madre had told me and he said "All right Madre told the truth."

1512. Did you tell him what other people had said?—No. Only Madre I mentioned.

1513. No mention of Rampersad's name?—No. 50

1514. No mention of Mandatt's name?—No.

1515. Or Rampratap's?—No.
1516. Why was the accused not given copies of the statements made by Mandatt and Rampratap?—I was not instructed by my officer.
1517. He was never given statements, to your knowledge, of what Mandatt or Rampratap had said?—No.
1518. Well, this is all that you can tell us about this interrogation that went on?—That's right.
1519. Then he was taken into Mr. Hooper's office?—It started in my office. After ten minutes he said "That is my statement" and I gave the statement to Mr. Hooper. Accused and myself we went to Mr. Hooper and more questions were asked. I took statement from Emmanuel Joseph in my office first.
1520. How much did you take? Show us down to where you took statement before you went into Supt. Hooper's office?—"He told me that Rampratap and he himself will shoot other places. He told me to go on to sleep."
1521. You took the statement up to that stage?—Yes.
1522. And it was from there that you shifted into Supt. Hooper's office?—Yes.
1523. Why was it necessary to shift to there?—Because I wanted to show the statement Emmanuel Joseph had made to me to my officer.
1524. Did Emmanuel Joseph stop when he got that far?—Yes.
1525. And didn't want to say anything more?—Then the officer put questions.
1526. In your office he stopped there and didn't want to say anything more?—That's right.
1527. Then he was taken into Supt. Hooper's office?—Yes.
1528. Who were all there in that office?—Asst. Supt. Spencer, myself and Emmanuel Joseph.
1529. Questions were then put to him?—Yes.
1530. Everybody putting questions?—Three officers putting questions.
1531. I suppose each man having a shot at him?—We asked him certain questions.
1532. How many police officers altogether in that room when these questions were being asked? How many police officers altogether?—I think there were three there, and there may have been some constables in the doorway.
1533. Wasn't Const. Nanka Singh there?—Yes, Nanka Singh and Ahmed were in my office.
1534. Constable Howsil?—They were not in the office of the Superintendent; they were in my office nearby. They were standing maybe in the doorway of my office.

11.45. Adjourned.

12.00. Resumed.

1535. Is it not a fact that Emmanuel Joseph said he wanted to write something and you gave him a pen and he wrote something in your office?—No.
1536. Then you wrote what he had written and showed it to Mr. Hooper and it was torn up?—No.
1537. Did you not then start to take a statement from him yourself and you found that he was repeating what he had previously said and you

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tion.

said that was no good and you took that statement in to Mr. Hooper and that was torn up?—No.

1538. And that in the end, when things were not going so satisfactorily, he was taken into Supt. Hooper's office where this statement which you now produce was taken?—No.

1539. Now Emmanuel Joseph I think speaks and writes good English?—Yes.

1540. Perhaps as good as you do?—Yes.

1541. Can you give us any suggestion why that statement was not taken by Supt. Hooper or Supt. Spencer who were present?—He didn't 10 ask me that he wanted to write himself, so I started to write.

1542. You had taken the statement, according to you—part of the statement?—Yes.

1543. And he had stopped then?—Yes.

1544. And then you took him to Mr. Hooper's office?—Yes.

1545. Did you take what he had already said to Mr. Hooper and show him?—Yes.

1546. And was it after that you took the accused into the Superintendent's office?—Yes.

1547. Can you give any reason why Mr. Hooper then didn't start 20 taking the statement, or Supt. Spencer?—I started, and he said "Carry on," so I carried on.

1548. Now Mr. Hooper said yesterday that he was in the office from the time that statement was commenced until the end of the statement?—I started first in my office. That office is very close to Mr. Hooper's and he saw me taking the statement.

1549. Supt. Hooper never mentioned anything at all about the statement being part-taken when the accused was in his office—can you explain that?—I started to take the statement first in my office, then the rest was taken in the Superintendent's office. 30

1550. Didn't you tell us distinctly that there were only you and two other non-commissioned officers present when that statement was taken down to the part you indicated?—Yes.

1551. Neither Mr. Hooper nor Mr. Spencer were present?—They were in the other office.

1552. They were not present?—No.

1553. And they didn't know what was taken down?—The first part I took, and Mr. Hooper read the statement.

1554. So he didn't have knowledge of the statement being taken from the beginning?—He saw me taking the statement when I was in my 40 office. I don't know whether he was looking through the door.

1555. So the statement was not taken completely in Supt. Hooper's office?—Part in my office and part in his office.

1556. What part of the statement was taken when Supt. Hooper was present?—After that, the whole.

1557. And the whole of that was taken as a result of interrogation?—As a result of questions put to him.

1558. So that what you were doing was this. The officers were putting the questions and you were taking down the answers given by the accused?—Yes. 50

1559. So that he was first cautioned and told that he needn't say anything, and then he was immediately asked a number of questions, is that right?—Yes.

1560. And is it not a fact that this questioning started at 11 in the morning and continued on until 6 p.m. that evening, with an hour off for lunch?—No. We started at 5 o'clock and completed about 6.30.

1561. He was never in the office from 11 to 6, with an hour off in the middle of the day?—No.

1562. Can you tell us when he was transferred to Lautoka from Nadi?—I don't know.

1563. Can you find out from your record?—We have no record of that.

10 1564. You have no record as to when he was transferred from Nadi Police Station to Lautoka?—In the first event he went before the Court and was remanded.

1565. You can't tell me how long after he made the statement on the 8th he was at Nadi Station?—The next we heard he was taken before the Court, then remanded and transferred to Lautoka.

1566. Isn't it on your file when he was brought before the Court?—It might be on the file.

1567. It is rather important because I am going to deal with the statement made in the Natabua Gaol. I want to know when he was transferred 20 from Nadi to Lautoka?—We have no record.

1568. Was he not removed in the police van to Lautoka?—No. They are not taken by police van; they are sent by ordinary lorry by the District Commissioner.

1569. When was he first before the Court?—It is not material—I don't want to waste the time of the Court.

1569A. You have seen a statement made at the Lautoka Gaol?—No.

1570. Perhaps I had better refer you to part of that statement. I will just refer you to the concluding part of his statement made when 30 he was in the custody of the prison authorities: "My third and fourth statements which I have given to Mr. Hooper are false statements. I was threatened and terrified and they made me state all false words and made me stand the whole day, which made me to say all the false matter. That is all I wish to say." What I want to ask you is—was the accused bullied in any way in your presence?—No.

1571. Was he spoken to in a rough manner?—No.

1572. Quiet, meek and mild?—Yes.

1573. And the questions were put to him in a moderate voice?—Yes.

40 1574. You swear that?—Yes.

1575. Can you give any reason why there should be so many police officers present?—The officers were not inside. The Superintendent, Assistant Superintendent and myself were actually in the office.

1576. Was Supt. Spencer there all the time?—That statement which I took first he was not there, but later he was there.

1577. So from the time you took that partly written statement to Inspector Hooper's office Mr. Spencer was there all the time?—Yes.

1578. Until the statement was completed?—Yes.

1579. You are sure of that?—Yes.

50 *Rice*: No questions.

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tion.

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*Xcd.*

*Sharma* : 1580. Inspector Lal Singh, you say in your evidence-in-chief that you went to a canefield with Rampratap looking for a gun ?  
—Yes.

Prosecution  
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1581. Are you sure that canefield belongs to Rampratap ?—When I made inquiries they said it belonged to Rampratap. I don't know whether it belongs to Rampratap or anybody else. Mandatt said "The gun is in Rampratap's field."

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1582. Have you discovered who owns that canefield ?—No.

1583. You don't know whether Rampratap owns the canefield or not ? 10  
—No.

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1945,  
continued.

*Re-Xn.* : 1584. You have been asked about the statement made by Joseph ?—Yes.

Cross-  
examina-  
tion.

1585. And you said you took down a certain amount of that and then you took what you had taken down in to Mr. Hooper ?—Yes.

Re-  
examina-  
tion.

1586. And you pointed out the place to which the accused had proceeded before you went in to Mr. Hooper ?—Yes.

1587. At that point, I think, he had just mentioned for the first time that Rampersad had told him that Rampratap had fired at Chotabhai's store ?—Yes. 20

1588. Was that the first time he had ever said anything like that ?—He had never said that before.

1589. And then you took it in to the Superintendent ?

NOTE.—Evidence of Ahmed (alias Nabiar) Sergeant-Major, Fiji Police, Questions 1590 to 1625 ; Evidence of Rampratap, Questions 1626 to 1771 ; Evidence of Ramkolawan, Questions 1772 to 1888 ; and Evidence of Ranjattan, Questions 1889 to 1942, omitted by consent.

9.30 a.m.

6th  
September  
1945.

Thursday, 6th September, 1945.

FOURTH DAY. 30

LAL SINGH—*continued.*

Sub-Inspector of Police.

*Xn. continued.*

1943. I think it was on the 7th February you took a statement from Rampratap, one of the accused ?—Yes.

1944. And that is the statement you took, about 1 o'clock that afternoon ?—Yes.

1945. It was a voluntary statement ?—Yes.

1946. And he spoke in Hindustani ?—Yes.

1947. Did you write down what he said in the Nagari script ?— 40  
Yes.

1948. Did you read it back to him ?—Yes.

1949. Did he seem to understand and approve of it ?—Yes.

1950. Did he make any objection to anything in it ?—No.

1951. He put his thumb-print on it ?—Yes.

1952. Is that the statement ?—Yes.

1953. Was it made after caution ?—Yes.

Exhibit V.

(Statement read.)

1954. That was about 1 o'clock on the afternoon of the 7th?—  
Yes.

1955. I think about 8 o'clock that evening you went with Rampratap to Mulomulo?—That's right.

1956. What happened at Mulomulo?—He showed me the place where he stood under the mango tree—the place shown by Mandatt—  
No. 2 on plan.

1957. It was the same place as Mandatt had shown you?—Yes. Rampratap said Emmanuel Joseph went about a chain ahead and fired at Chotabhai's store; that he (Rampratap), Mandatt and Emmanuel Joseph came along the same track as shown to me by Mandatt. He showed me the same track as shown to me by Mandatt. Returned towards Emmanuel Joseph's house along that track.

1958. And who did he say returned along that track?—Rampratap said "We all three returned the same track."

1959. Would you point out the track he took you along?—(Indicates). Rampratap also showed me the place where Emmanuel Joseph fired at Lalji's store?—No. 6 on map.

1960. That is what he told you?—Yes. And he said he tied his horse at No. 14 on map.

1961. Anything else?—No.

1962. When he showed you those things I think you came back to the station?—Yes.

1963. And arrested him?—Yes.

1964. And charged him with the murder of Ravindra?—Yes.

1965. Did you caution him?—Yes.

1966. Did he make a brief statement then?—Yes.

1967. Which you took down in Hindi?—Yes.

1968. And read back to him?—Yes.

1969. And did he approve of it and sign it?—Yes.

1970. Put his thumb-print on it?—Yes.

1971. Is that the statement?—Yes.

(Statement read.)

*XXd.*

*Chalmers* : 1971. (A) When you took this last man out—Rampratap—had long sticks been driven into the ground at the spot where the Constable had found the cartridges?—No.

1972. No sticks had been driven into the ground at all?—Yes.

1973. These sticks were standing well above the ground?—Yes.

*To Court* : 1974. One or more?—I saw two.

*Chalmers* : 1975. The sticks would be at the places marked 1 and 6 on the plan?—Yes.

1976. Can you say when those sticks were put in the ground?—I don't know.

1977. You don't know whether they were put in on the Saturday?—I don't know.

1978. That was the first time you had seen them, when you went out that night?—Yes.

1979. Would you have a look at my copy of the plan. I have marked in red?—One thing. There were no sticks at No. 6. The sticks were at No. 1.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 26.  
Evidence of  
Lal Singh,  
P.W.14  
(continued),  
6th  
September  
1945,  
continued.

Exhibit W.  
Cross-  
examina-  
tion.

In the  
Supreme  
Court of  
Fiji.

Prosecution  
Evidence.

No. 26.  
Evidence of  
Lal Singh,  
P.W.14  
(continued),  
6th  
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1945,  
continued.

1980. Not at No. 6 ?—No. One stick at No. 1.

1981. Isn't it a fact that what I have shown there on that plan is a road which goes down into the settlement in which Mandatt lives ? Almost alongside Lalji's store ?—There is a road, that's right.

1982. Would you say that that road runs something like that ?—No. The road is here to go to Mandatt's house.

1983. But from the main road ?—There is no main road.

1984. A track then ?—I didn't see any track there.

1985. There is a well-constructed road about a chain and a half from Lalji's store, going down to the settlement at the back ?—I didn't see that 10 at Lalji's store. I didn't see if there was a track or not.

1986. Do you happen to know whether or not Rampersad's land comes right up along the boundary here of Lalji's store, and also to Narain's house. Do you happen to know that that land on the other side is Rampersad's land ?—I don't know.

*Rice* : No questions.

*Sharma* : 1987. You read to us in this statement the sentence "I did not go to Manu's house on Saturday." Towards the end. That sentence does not occur in that statement ?—No.

*To Assessor (Potts)* : 1988. In all the evidence that has been given 20 so far there has been no mention of any tracks on the ground. About that time I think, Inspector, there was a fair amount of heavy rain. Were there no marks on the ground ?—No. Couldn't see any tracks.

1989. In the investigation that followed were there any tracks found ? —No tracks found that morning, 4th February.

*Re-Xd.*

*C.C.* : 1990. What was the state of the ground ? Would you expect to find footprints ? Was the ground soft enough ?—

*Assessor* : There was evidence given that it was necessary to fish A. D. Patel's car out of a ditch where it had become stuck, and from 30 memory there was a fair amount of heavy rain at that time.

*To Court* : 1991. What time were you there in the morning ? When were you there first in the daylight ?—About 10 o'clock or 11 on the Sunday morning.

1992. Did you look for footprints ?—Yes, but couldn't find anything.

1993. Why was that ?—Because there was grass on the track—not clear road.

*Chalmers* : Would Your Honour ask if there were the footprints of horses ?

*To Court* : 1994. What about the footprints of horses ?—We only 40 looked at the place near Chotabhai's store.

*To Assessor (Ragg)* : 1995. Did the accused you took that statement from mention how the gun was brought from Tunalia ? Was it concealed or in a tin case ?—We didn't ask him that.

Re-  
examina-  
tion.

No. 27.

EVIDENCE of John Hugh Spencer—P.W. 4—(recalled)—(continued from p. 51).

JOHN HUGH SPENCER (Re-called).

Asst. Supt. of Police.

1996. At an earlier stage you proved that plan ?—I did.

1997. And there were one or two points on that plan which I didn't ask you about because I wasn't in a position to at that time ?—Yes.

1998. Those are the various points shown on the lower track ?—Yes.

1999. Who pointed those out to you ?—All the points were pointed out  
 10 to me. 1, 2, 3, 14, 5, 6, 13, were pointed out to me by the accused Mandatt on the morning of the 7th. Point 1 was indicated to me by Mandatt as being where the shots had been fired at the store, No. 10. Point 2 was indicated as being the mango tree under which he stood while firing was in progress. That is a matter of 35 yards from the shooting point, 1. From point 2 to point 3 there is a mud track not covered by grass. The state of that track at the time was drying out. It had been very wet. Point 3 is a wire fence over which Mandatt said the three of them returned back to Queen's Road. The wires of that fence were not taut at the time and it would have been quite possible for anybody to walk across  
 20 it without lifting his legs very high. Point 4 has no indication other than a point of a triangle which I had to make in order to get the triangulation for the rest. It is a tree below the house. 14 is a gate, as I stated in my first evidence—a gateway. That track, point 3 to 14 is all grass; it is not mud. Point 5 is the post at which the accused Mandatt stated he had tied his horse. That post is eighth from the end; we counted 21 in that fence. Point 6 is the point indicated to me by the accused Mandatt from where shots were fired at the store of Lalji, point 7. When I say the store of Lalji, the tin hut to the right of the bure.

2000. Are those measurements estimated or measured ?—Where  
 30 they are given in yards they are exact measurements. Perhaps I should qualify that statement by saying it is as exact as I can make it. It was done by steps and was checked by three persons.

*To Court:* 2001. Paced, was it ?—Yes.

*C.C.:* 2002. When you first went out to the scene late at night or in the very early morning of the 4th, did you make any search in the vicinity of that track ?—I did. I was searching primarily for footprints. This track from 3 to 4 did show footmarks on it. It also showed the marks of a horse: hoof marks. At that particular time I didn't know what form of transport had been used and I paid very little attention to those marks  
 40 beyond noting them. It is an open track and presumably could be used by other persons—persons could come on to that track from any point, I imagine. The imprints of those tracks were not very deep; they were fairly recent as far as I can recollect, but they were not very deep. The path there runs up and it is reasonably dry.

2003. That is the section between 3 and 4 ?—That is so—the section between 2 and 3, I mean. The rest of the track between 3 and 14 is a grass track and was slightly overgrown at the time. There had been rain and the grass was very heavy, but there was a beaten track through it.

2004. Were any of these points marked before Mandatt showed you  
 50 the various points ?—Yes, point 1 was marked with a stick.

*In the  
 Supreme  
 Court of  
 Fiji.*

*Prosecution  
 Evidence.*

No. 27.  
 Evidence of  
 John Hugh  
 Spencer,  
 P.W.4,  
 recalled,  
 6th  
 September  
 1945.  
 Exhibit U.



*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

*No. 27.  
Evidence of  
John Hugh  
Spencer,  
P.W.4,  
recalled,  
6th  
September  
1945,  
continued.*

2005. As being the point where the shells were found?—That point wasn't shown to me. That was marked for our own identification only, and the stick was not a very big one; it was a reasonably small stick. I was there when it was put in. The indication of point 6 was not done by a stick; it was done by cutting the top of a bush.

2006. When was that done?—That wasn't done in front of me. It was done after the plan; when Mandatt showed me the position. Not the day before.

2007. And Mandatt took you to these places at night?—One o'clock in the morning. 10

2008. What was the visibility like at that time?—On the morning of the 7th, at 1 o'clock in the morning?

2009. Yes?—It was dark—very dark.

2010. What was the time, roughly?—1 o'clock in the morning.

2011. You were not present when Rampratap showed the place?—  
No.

*To Court:* 2012. Was Sub-Inspector Lal Singh with you?—Yes, and also Supt. Hooper, and a crowd of constables.

*Cross-  
examina-  
tion.*

*Xcd.*

*Chalmers:* 2013. I think in your evidence previously you said the 20 holes in the store were lined up with the places where the cartridges were found?—I didn't say so—that was said by Supt. Hooper.

2014. Did you see that done?—No.

2015. When I went out there I saw two long sticks probably 5 to 6 feet high at points 1 and 6. Were they there when you sent out?—I don't recollect seeing any at point 6. At 1 there was a stick put in at my instructions.

2016. Was that the stick from which the holes were lined up?—  
No. They weren't lined up on a stick.

2017. What method was used?—I can't tell you because I wasn't 30 present.

*The Court:* I gathered from what Mr. Hooper said that he lined up the bullet holes from which he got the angle.

*Chalmers:* 2018. I understand sticks or reeds were put through the holes?—I can give you the theory. You get two holes, as close together as you possibly can, and then you insert a straight reed through them, and the direction in which that reed points will give you the direction in which the shot was fired.

2019. Then a stick was put in?—Yes.

2020. At point 7?—Point 6. 40

2021. You put a stick at point 6?—No. The bush was clipped to indicate the spot Mandatt showed.

2022. Did that leave a straight stick standing there?—To my recollection there was no stick there at all.

2023. The whole country was clear—quite bare?—It was just bush. Very long grass and brush—bush.

2024. Not country that had been grazed down at all?—I wouldn't say so. Not from my memory. The main reason why we had to cut the bush was that the bush was too long to put a post in.

2025. I think I called your attention to this in the Lower Court. Did you see a road running past Lalji's store going down to the settlement at the back?—In which direction?

2026. Running down in a curved direction down this way (indicates from west of Lalji's store running east)?—There is no clearly defined track there, to my knowledge.

This point is important from the point of view of the defence, and I would ask that the Court view the spot. I have been to the spot myself and there is a very clearly defined track there.

10 *The Court* : You have marked the spot on the plan ?

*Chalmers* : Yes.

*Witness* : 2027. It is possible there may be a track, but it is certainly not a very large one.

*Chalmers* : 2028. It is a track on which gasitas bring up rice to the rice mill?—I don't recollect that, but it may be so.

2029. It is important because towards the end of that track is where Mandatt and Rampersad live.

*The Court* : That track leads to Mandatt's and Rampersad's house ?

*Chalmers* : Yes.

20 *The Court* : What is the name of the Settlement ?

*Chalmers* : It is a part of Mulomulo, sir.

2030. Do you happen to know that Rampersad's and Mandatt's land comes right up and adjoins Narain's store there?—No.

2031. You have never made inquiries?—No, not personally.

2032. Do you know where Mandatt and Rampersad live?—I know Mandatt lives over the back here, but I haven't visited his house.

*To Court* : 2033. He lives at Tunalia, doesn't he—Rampratap?—Rampersad, not Rampratap.

30 *Rampratap* is a round-about relation.

2034. Isn't that his brother?—Rampersad is the brother of Mandatt.

*Chalmers* : 2036. You can't give us any idea how far he lives from Lalji's store?—I know the general direction of the house. Over here (indicates top left-hand side of map). That is to say to the left of the main government road.

2037. You didn't go to the back of Lalji's and have the house pointed out to you?—I didn't, no.

2038. The road I am referring to connects up about two chains down from Lalji's with the road that goes up there to Lalji's store?—Yes.

40 *Rice* : No questions.

*Sharma* : No questions.

*Re-Xd.*

2039. Have you been to Rampersad's or Mandatt's house?—No.

2040. You don't know how you get there from Chotabhai's store?—I haven't any idea.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

•No. 27.  
Evidence of  
John Hugh  
Spencer,  
P.W.4,  
recalled,  
6th  
September  
1945,  
*continued.*

Cross-  
examina-  
tion.

Re-  
examined.

*In the  
Supreme  
Court of  
Fiji.*

No. 28.

**EVIDENCE of Shankar Pratap—P.W.19.**

**SHANKAR PRATAP. Sworn.**

*Prosecution  
Evidence.*

Inspector of Police.

2041. You are stationed at Lautoka?—Yes.

No. 28.  
Evidence of  
Shankar  
Pratap,  
P.W.19,  
6th  
September  
1945.

2042. I think on the 14th February of this year you took a written statement from the accused Emmanuel Joseph?—I did.

2043. Under what circumstances did you come to take that statement?—As a result of a telephone message received from Mr. Baker, the District Officer, Lautoka.

2044. I think Emmanuel Joseph was then in prison awaiting trial?—Yes.

2045. And as a result of this message from Mr. Baker did you go to the goal?—Yes.

2046. Did you caution him?—I did.

2047. And he made a voluntary statement?—Yes.

2048. Do you remember in what language he spoke?—In English.

2048. You wrote it down in English?—Yes.

2050. Read it back to him?—Yes.

2051. And he approved of it and signed it?—That is so.

2052. Is that the statement?—This is the statement.

Exhibit T.

*Cross-  
examined.*

*Xcd.*

*Chalmers* : 2053. You said “awaiting trial.” The preliminary inquiry had not been held?—No.

2054. In fact it was not held until late in March?—That is right.

*Rice* : No questions.

*Sharma* : No questions.

10

20

No. 29.

No. 29.

Evidence of  
Kopie  
Padipurakel  
Joseph  
P.W.20,  
6th  
September  
1945.

**EVIDENCE of Kopie Padipurakel Joseph—P.W.20.**

**KOPIE PADIPURAKEL JOSEPH. Sworn.**

2055. I think you are the father of Emmanuel Joseph?—Yes.

2056. I want you to identify that handwriting?—Yes, it is mine.

2057. Did you write this letter, then?—

*Chalmers* : I object to this. What possible relevance has a letter written by this witness behind the back of the accused in this case?

*The Court* : Is this the one of the 25th November? On what ground do you object?

*Chalmers* : It is clearly hearsay. A letter that he wrote to anybody. It is not suggested that he is writing as an agent for anybody else. The whole thing is clearly hearsay. If statements can be let in as to what witnesses wrote or said at different times behind the back of an accused person, we would violate every principle of the law of hearsay.

*Crown Counsel* : In the first place, Your Honour, I would observe that I have not completed the examination of this witness, which might

30

40

affect the position ; but in direct answer to my learned friend's objection my submission would be that this is relevant on the question of motive, because the allegation is that this is a family affair.

*The Court* : But you have the witness here in front of you to get in a statement of his on a previous occasion to some other person. I don't think it is admissible—not at present, at any rate.

*C. C.* : Yes, Your Honour.

2058. Have you ever had the police at your mill ?—Yes.

2059. At Mulomulo ?—Yes.

10 2060 : They were there at whose request ?—Mine.

2061. How long did they stay there ?—About four or five weeks.

2062. And what were they doing there ?—Guarding it, sir.

2063. Guarding it against what ?—Against the troubles upon us.

2064. What sort of troubles ?—Shooting went on at the mill.

*To Court* : 2065. You had had shots fired at the mill ?—Yes.

2066. And therefore you asked the police to send somebody to guard you ?—Yes.

*C. C.* : 2067. Can you remember how long ago that was ? What month it was ?—November, I remember.

20 2068. November of last year ?—Yes.

2069. Was your son Emmanuel Joseph living at the mill at that time ?—No, he was a driver.

2070. Where did he live ?—He lived with me.

2071. Was he living there at the time of the shooting ?—At Mulomulo, you mean ?

2072. Yes ?—Yes, he was.

2073. Was anyone suspected of this shooting, by your family ?—

*Chalmers* : Is this relevant ?—What he suspected ?

*The Court* : Yes, I should think so.

30 *Chalmers* : What somebody else suspects—not what the accused suspects ? In what way would that be relevant ? We might get a lot of people by their suspecting all sorts of things.

*Crown Counsel* : My question really relates to the suspicions of his family.

*The Court* : Perhaps you had better leave it out.

*Xcd.*

*Chalmers* : 2074. You were asked about where Emmanuel Joseph was living in November. Where were you living about that time ?—I was living at Mulomulo.

40 2075. Had you any other premises ?—No, at that time I hadn't come to Vitogo.

2076. Where are you living now ?—At Vitogo.

2077. That is just outside here—not far from here ?—Yes.

2078. What did you do there, first of all ?—I was teaching in the school—Mulomulo school.

2079. What took you to Vitogo ?—Because the business was very slack there I wasn't able to supply my family existence, so I had to leave that place.

2080. You were running a rice mill ?—Yes.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 29.  
Evidence of  
Kopie  
Padipurakel  
Joseph,  
P.W.20,  
6th  
September  
1945,  
*continued.*

Cross-  
examina-  
tion.

- In the  
Supreme  
Court of  
Fiji.*
- Prosecution  
Evidence.*
- No. 29.  
Evidence of  
Kopie  
Padipurakel  
Joseph,  
P.W.20,  
6th  
September  
1945,  
*continued.*  
Cross-  
examina-  
tion.
2081. Why do you say business became bad ?—Someone set up another rice mill not far from me.
2082. And there was not enough business for the two rice mills ?—Yes.
2083. So you shifted to Vitogo ?—Yes.
2084. And when did you actually go yourself to Vitogo ?—In the beginning of December.
2085. You took up land that had a store building on it ?—Yes.
2086. And started running a store there ?—Yes.
2087. Well, did you have much contact with Mulomulo ? Did you live at Mulomulo often ?—Yes, I used to go and visit my family every two or three weeks.
2088. But most of your time you were down here ?—Yes.
2089. Have you shifted the rice mill ?—Yes, I have shifted everything from there.
2090. Where is it now ?—At Vitogo.
2091. When did you make arrangements to shift it ?—Three or four months ago I intended to shift the rice mill from there.
2092. Evidence has been given I think by Chotabhai Patel that your son lived in a bure belonging to him ?—Yes. 10
2093. The first thing you erected was your rice mill there ?—Yes.
2094. Had you a dwelling-house there ?—No.
2095. Where did you put your things ?—Space was short at our home. Chotabhai asked us “ If you haven’t enough room to keep your furniture, put it in my bure house.”
2096. So all your furniture was kept in the bure house ?—Yes.
2097. Was anybody looking after the furniture there ?—Yes, Emmanuel Joseph was living there.
2098. Afterwards what happened ?—When we put up a warehouse just opposite our mill we shifted the furniture. 30
2099. You vacated that house and shifted the furniture to your own bure ?—Yes.
2100. Then came to live on your own land in your own bure ?—Yes.
2101. You know where Lalji’s store is there ; not far from Lalji’s store is there a road going down towards where the accused Mandatt lives ?—Yes.
2102. What was that road used for ?—That was a track.
2103. A fairly wide track ?—Yes, it is a wide track but it is rough. They take a car sometimes.
2104. How many chains would that be away from Lalji’s bure, in the direction of Nadi ? I will put this plan to you. Where I have marked a road on the plan, would you say that was about where the road goes ?—Yes. 40
2105. If you go a little way along that track isn’t it a fact that you can see where the accused Mandatt lives ?—This track a car cannot go. Only persons, horses can go.
2106. That track rises and goes up on to a bit of a hill ?—Yes.
2107. And when you get on to that hill a few chains from the main road, can you see Mandatt’s house ?—Yes, quite clear.
2108. How far is Mandatt’s place from Lalji’s store by that track ?—Roughly about thirty to forty chains. 50
2109. Do you know Rampersad, brother of Mandatt ?—Yes.

2110. Does he own land anywhere there?—Yes, they have a block of land beside Narain's land.

2111. Comes right up near Narain's and Lalji's?—Yes.

2112. Does it come right up near to the main road?—Yes.

*XXd.*

*Rice* : 2113. Would you look at the map again. Do you see the house marked on that map as No. 9, which I think is Narain's house—you see that, do you?—Yes.

2114. And you know that house quite well, don't you?—Yes.

10 2115. Just to the left of that on the map you will see that the road or track forks—one fork going to Chotabhai's store and the other one to the east?—Yes.

2116. Isn't that fork that leads to the east the normal way one would get to the accused Mandatt's place?—Yes—could go that way.

2117. That, in fact, is a continuation of the road that leads past what was your rice mill?—Yes.

2118. You have told us that business with you was very slack at Mulomulo—you mean the rice mill business, do you?—Yes.

20 2119. Were you engaged in your teaching occupation at the same time as you were running the mill?—When I was running the mill I wasn't teaching at all.

2120. You then ceased to be a teacher?—I only taught one year at Mulomulo—1943.

2121. And at that time you were not a miller?—My son was in the mill in 1944.

2122. That was when your mill was slack?—Yes.

2123. Did you ever contemplate opening a store out there at Mulomulo?—Yes, I had a little opinion to open a store, including the rice mill, because our living condition was very poor.

30 2124. And you were going to make the mill your store premises?—Yes.

2125. You have told us, however, that you took up some land for a store building I think you said at Vitogo about the beginning of December. Is that right?—Yes.

2126. And did you get a store licence for that?—Yes.

2127. And are you still running that?—Yes.

2128. Did you buy the building as well as the land?—No, I didn't buy it.

2129. Rented it, or something like that?—Yes.

40 2130. And you are still running it?—Yes.

2131. And you entered into possession at the beginning of December?—Yes.

2132. Did your family continue on at Mulomulo?—Yes.

2133. We have also had it from you, as well as from one other witness, that the rice mill, both the building and the machinery, have now been removed?—Yes.

2134. What happened to the machinery?—It is still lying idle.

2135. And the building?—I pulled it down.

2136. Where did you remove it to?—To the Vitogo store.

50 2137. You added it to your Vitogo premises?—Yes.

2138. You told us that at the beginning of December you bought an existing store building at Vitogo?—Yes.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

—  
No. 29.  
Evidence of  
Kopie  
Padipurakel  
Joseph,  
P.W.20,  
6th  
September  
1945,  
*continued.*  
Cross-  
examina-  
tion.

- In the Supreme Court of Fiji.*  
*Prosecution Evidence.*  
 No. 29.  
 Evidence of Kopie Padipurakel Joseph, P.W.20, 6th September 1945, continued.  
 Cross-examination.
2139. And that you ran a store in it ?—Yes.  
 2140. And then you told us also that the rice mill machinery was still at Mulomulo ?—Yes.  
 2141. But that since that you have removed it to Vitogo ?—Yes.  
 2142. You have re-erected it in some way ?—No.  
 2143. What have you done with it ?—It is still lying idle. The materials as well as the machinery.  
 2144. How is it you left the building at Mulomulo ? Why didn't you remove it straight away ?—It took some time to remove the materials from there.  
 2145. But nothing was done towards removal until long after this shooting at Chotabhai's place ?—No. I thought it was shifted about four months ago, as I have already said.  
 2146. When did the removal begin ?—About four or five months ago.  
 2147. This is now September, which would take us back to about April or May ?— Yes.  
 2148. That is long after the shooting at Chotabhai's place ?—Not for that.  
 2149. It took place in February ?—Yes.  
 2150. And that is May ?—Yes.  
 2151. Why didn't you remove the machinery straight away ?— I pulled out one engine by hand and there was no conveyance at all to take it easily from there. So I have to take certain time for it because I was living here and the title up here was not completed. So it took time.  
 2152. Didn't any of your family to your knowledge still entertain the idea of using the building at Mulomulo perhaps for a store ?—No, I didn't.  
 2153. I am asking about your family ?—No.  
 2154. Not to your knowledge ?—No.  
*To Court :* 2155. Did I understand you to say that you thought at one time of opening a store at Mulomulo ?— Yes.  
 2156. Did you give up the idea ?—Yes.  
 2157. And instead you went to this other place and opened it there ? —Yes.
- Crown Counsel :* Might the statements of the accused at the preliminary inquiry be read ?

(Statements read.)

No. 30.  
 Statements of the Accused, 18th May 1945.

No. 30.

STATEMENTS OF THE ACCUSED.

STATEMENTS OF THE ACCUSED :—

*Mandatt :* I do not wish to say anything here. Whatever I have to say I will say in the Supreme Court.

(Sgd.) MANDATT.

*Rampratap :* Whatever I have to say I will say in the Supreme Court.

RAMPRATAP. His Left Thumb Mark.

*Emmanuel Joseph :* I do not wish to take an oath. I am not guilty. I know nothing of the shooting that took place at Chotabhai's store and

Lalji's store. I was sleeping in the night. I did not meet Mandatt, Rampersad or Rampertap. I have no reason whatsoever to do shooting at Chotabhai's store and other places. That is all I have to say.

(Sgd.) E. JOSEPH.

(Sgd.) D. COLLINS.

District Commissioner,  
18th May, 1945.

*Crown Counsel* : That is the case, if Your Honour pleases.

*In the  
Supreme  
Court of  
Fiji.*

*Prosecution  
Evidence.*

No. 30.  
Statements  
of the  
Accused,  
18th May  
1945,  
*continued.*

No. 31.

10 SUBMISSIONS to Judge on behalf of Emmanuel Joseph.

*Chalmers* : I would submit that there is no case made out by the Crown against the accused Emmanuel Joseph. I refer Your Honour to section 291 (1) of the Criminal Procedure Code—Close of case for prosecution : “ When the evidence of the witnesses for the prosecution has been concluded, and the statement or evidence (if any) of the accused person before the committing Court has been given in evidence, the Court, if it considers that there is no evidence that the accused or any one of several accused committed the offence, shall, after hearing, if necessary, any arguments which the advocate for the prosecution or the defence may  
20 desire to submit, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict, of not guilty.”

If Your Honour pleases, in that connection I would also refer Your Honour to Halsbury's Laws of England, Second Edition, Vol. 13, para. 605 : “ Although it is the province of the jury to . . . to find in favour of the other party . . . ” And dealing with the question of innocence, at para. 700, page 628, same volume, on the presumption of innocence : “ There is a general presumption . . . the more clearly must it be proved.”

30 This, if Your Honour pleases, is a capital charge, and if we take the whole of the evidence as it is presented now, I submit that there is in law no evidence. To take the witnesses individually :

Harry Halstead : his evidence has no bearing, I submit, on the accused.

The storekeeper, Chotabhai : his evidence could only raise, not facts, but merely matters of suspicion, and as far as that is concerned, they do not relate closely to the incident of shooting. There is a comparatively long gap of time between the occurrence of the shooting and the alleged happenings in connection with the jack and the horse. In that respect, I would refer Your Honour to Halsbury's Laws of England, the same volume, para. 620 : “ There are many incidents, however . . . and not  
40 independent facts prior or subsequent thereto.” If Your Honour pleases, this alleged happening in connection with a dispute over a jack is a matter of some months prior to this alleged shooting, and the question of the horse-riding, I submit, is again not evidence, as being too remote and there being no obligation on the part of the accused to control the members of his family, and the dispute there was a matter with the father, as Chotabhai has said : he spoke to the father about the boy. So I submit that, in effect,

No. 31.  
Submissions  
to Judge on  
behalf of  
Emmanuel  
Joseph,  
6th  
September  
1945.



*In the  
Supreme  
Court of  
Fiji.*

that evidence is merely evidence of suspicion and it is not in law evidence of facts which is necessary for the prosecution to prove before the accused can be called upon to answer.

*Prosecution  
Evidence.*

As regards the witness Lalji, he again does not in any way, I submit, connect the accused with the alleged offence.

No. 31.  
Submissions  
to Judge on  
behalf of  
Emmanuel  
Joseph,  
6th  
September  
1945,  
*continued.*

The same thing applies to the witness Yusuf ; and as regards Madre, the man who was with the accused at the time it is alleged they saw Mandatt on horseback, his evidence merely goes to show that they met the accused and, if anything, there was a conversation, but there was no suggestion in that conversation of what took place—that the accused had any know- 10  
ledge of what was to take place, or that he was in any way interested. In fact, it shows that he was disinterested in the incident, because, if he knew as a matter of fact that this boy was going to get a gun for him it seemed absolutely unnecessary for him to ask Mandatt where he was going on that day.

There is the medical evidence. There is Baksh : that relates only to another one of the accused. Jaganandan : he saw two persons on horseback and identified one as Mandatt. There was no identification at all of the other person, and if, as he said, he could see the other person but he didn't know him, if it was one or other of the accused than Mandatt he should have been able to state in Court here whether or not it was one of 20  
the accused. But his statement is negative as far as Emmanuel is concerned because it doesn't show that he was one of those parties.

Shankar Bhai : his evidence was only as to taking the children to the hospital.

Nanka Singh : his evidence relates to the finding of a gun and the taking of statements. Then we come to the police evidence as regards the taking of statements. As far as those statements are concerned, nowhere in those statements do they contain an admission or can they be considered in any way as containing an admission by the accused that he had anything to do with the shooting. Some of the statements conflict, as statements 30  
taken under these conditions often do, but unless there is something that can be read into them to say that he did actually take part in the shooting or admit in some form his guilt, I submit that is no evidence. And it is essential, I submit, for the Crown to establish at least prima facie evidence before the accused person can be called upon to answer. "A party, therefore, who charges another with any description of wrongdoing must always give at least prima facie evidence of guilt before the party accused can be called on for an answer." And I submit that some form of direct evidence (this evidence is not even circum- 40  
stantial) and some form of evidence much more cogent is required in this case. Of course, we have the evidence of the statements of the other accused, but those statements, as Your Honour of course knows, are not evidence against the accused Emmanuel. They have no bearing in so far as he is concerned, and cannot be used against him. I would ask Your Honour that it is necessary, according to our Criminal Procedure Code, and this is a matter for Your Honour to decide as a question of law, that Your Honour give a decision on the point, and it would appear that the question is raised under section 291 that Your Honour must record a finding on the question as to whether there is a case to answer or not.

*The Court :* In my view there is a prima facie case, and that I have 50  
recorded.

11.15 a.m. Adjourned.

11.30 a.m. Resumed.

## DEFENCE EVIDENCE.

No. 32.

EVIDENCE of Emmanuel Joseph—D.W.1.

*In the  
Supreme  
Court of  
Fiji.**Defence  
Evidence.*

Accused 1.

EMMANUEL JOSEPH. Sworn.

(f/n K.P. Joseph).

*No. 32.  
Evidence of  
Emmanuel  
Joseph,  
D.W.1,  
6th  
September  
1945.**To Chalmers* : 2158. You are a teacher, I think ?—Yes.2159. You remember the time Chotabhai's child Revindra was  
10 killed ?—Yes.2160. You were living then on your father's land, I think, at  
Mulomulo ?—That's right.

2161. On your property, I think, there is a rice mill ?—Yes.

2162. With a lean-to which was used as a garage ?—Yes.

2163. And I think also there was a bure there ?—Yes.

2164. How long had you been living there before this child was  
killed ?—I lived there for about nine months before the accident.

2165. What was your occupation at the time ?—I was a taxi driver.

2166. Who did the taxi belong to ?—My father.

20 2167. Who did the rice mill belong to ?—To my father.

2168. At about the time of the shooting of this child, who was running  
the rice mill ?—My younger brother.

2169. What is his name ?—Nathaniel Joseph.

2170. Anybody else ?—At that time Hanif used to run the rice mill.

2171. Your brother was in charge but Mohammed Hanif was the  
employee running the mill ?—Yes.

2172. Where was your father then—where was he living ?—At Vitogo.

2173. How long was he there ?—From the beginning of December.

2174. Running a store there ?—Yes.

30 2175. It was after he left you began to employ Mohammed Hanif ?—  
Yes.2176. And when your father was there he used to run the rice mill ?  
—Yes.2177. The first building that was erected on the land was the rice  
mill, was it ?—Yes.2178. When the rice mill was erected where was your family living ?—  
At the teachers' quarters in the school compound.

2179. At Mulomulo ?—Yes.

40 *To Court* : 2180. The rice mill was erected seven or eight years ago ?  
—Yes.*(Chalmers)* : 2181. You were living in part of the mill itself ?—Yes.2182. And can you give us any idea of when your family left the  
school compound ?—Approximately 1½ years ago.2183. Had you any dwelling-house to live in ?—No. I slept in the  
rice mill.

2184. Chotabhai has said that he lent you a bure ?—That is so.

2185. That is the bure near his store ?—Yes.

*In the  
Supreme  
Court of  
Fiji.*

*Defence  
Evidence.*

No. 32.  
Evidence of  
Emmanuel  
Joseph,  
D.W.1,  
6th  
September  
1945,  
*continued.*

2186. What did your family use the bure for?—Chotabhai Patel came to understand the circumstances of our situation and told us: “If you people like to put your goods in my bure you can do so.” So part of our furniture was kept there.

2187. Was any kept in the other building?—No.

2188. Later did you build a bure of your own?—Yes.

2189. How long afterwards?—Shortly afterwards, but I can't give you the time.

2190. Where were you actually sleeping before the bure was built?— I was sleeping actually in Chotabhai Patel's bure. 10

2191. And after your bure was built your family went to live in the bure?—Yes.

2192. And after your family left to go to Vitogo I think you went and slept in the rice mill?—It was before that I left Chotabhai's bure.

2193. Where did you go and stay then?—I used to stay in the rice mill.

2194. Was there a room in the rice mill?—Yes.

2195. Any beds in there?—Yes.

2196. How many?—Two.

2197. It has been described by one of the police officers that the rice mill is all under the same roof—where the engines are?—Yes. 20

2198. And the room you sleep in is completely surrounded on all sides by wall?—Yes.

2199. It has a door and one push-out window?—Yes.

2200. Chotabhai has mentioned some trouble about a jack?—As a matter of fact, I know nothing about the trouble about the jack.

2201. Who borrowed the jack?—I so far understand that my father borrowed the jack from Chotabhai Patel.

2202. Did Chotabhai ever speak to you about the jack?—No, he did not. 30

2203. Do you know what the dispute over the jack was about?— Yes, I later came to understand about it.

2204. What was the dispute?—Somehow the jack was broken but it was repaired and given back.

2205. Do you know where the jack was repaired?—Yes.

2206. Where?—At one of the blacksmith's in Nadi.

2207. When the jack was given back did the owner take it or refuse to take it?—He refused to take it.

2208. What happened then? Was there any discussion about payment or compensation?—No. I don't know anything about that. 40

2209. Did your father tell you?—No, he didn't tell me.

2210. Did you have any heated words or arguments with Chotabhai over the jack yourself?—No.

2211. Now there is another incident that has been called attention to, about your brother riding a horse up and down near Chotabhai's store. Do you remember that incident?—I remember all that.

2212. Do you remember what happened?—I was told—I don't remember.

2213. You didn't see what happened?—No.

2214. Was your brother injured at all?—I later on found out that he was injured. 50

2215. How?—By falling from the horse.

2216. Did you go up to Chotabhai's place in connection with that matter?—I didn't actually go, but I went to bring back my family.

2217. What were they doing there?—When I came back from the town I parked the car and found nobody at home. I found they were having a squabble. I went and called them home.

2218. There was a squabble with Chotabhai about your brother falling off the horse?—Yes.

2219. Did you take part in that squabble?—No.

10 2220. And after that incident did your father stop the boys from riding?—Yes.

2221. How long before this shooting would you say this trouble with the horse was?—To my estimation, I should say over three or four months.

2222. And from that time onwards had you had any words or any trouble at all with Chotabhai?—Nothing of that sort.

2223. He said, I think, that you used to deal with him before you left his bure—before the trouble with this jack. You used to deal with him, or your family dealt with him, but after that you didn't deal with him. Is that correct?—No.

2224. Did you deal with him?—Yes.

20 2225. What sort of things did you get?—I never used to buy anything in particular, but whenever I needed something I would buy from there.

2226. Where did you do your shopping usually?—In town.

2227. Were you in and out of town every day in your taxi?—Yes.

2228. As regards prices in town compared with prices in your own neighbourhood, is there any difference?—That is so.

2229. Which was more advantageous, to buy in town or—?—It was more advantageous to buy in town.

2230. Lalji has also told the Court that you had some trouble with him, I think?—Yes.

30 2231. And that was a long time ago, was it not?—Somewhere about three years ago.

2232. He has given his version of that. Perhaps you would tell us what the actual dispute between you and Lalji was?—That he swore at my parents. He abused my parents and I went and asked him not to do so. Because he is also a business man and I am a business man and if such things occur it will prove bad for us. He said: "You are a small boy; you should keep quiet." I said: "I am just telling you," and he slapped me and I hit him.

2233. Was there any dispute about a taxi fare?—No.

40 2234. He said you were demanding \$5—practically trying to extort \$5 from him?—That is false.

2235. I think this went to Court and I think you were fined?—Yes, I was.

2236. Since that day has there been any further trouble? Can you give us an idea how long ago it was?—November, 1943.

2237. And since that day has there been any trouble between you at all?—No.

2238. Had any of these people travelled in and out of town in your taxi?—No.

50 2239. Now before this shooting incident had there been any intention to remove the mill?—Yes.

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2240. And were arrangements made to shift the mill?—Yes, and one of the engines was pulled out of the place where it was kept.

2241. You have two engines?—Yes.

2242. And one of them had actually been removed before this shooting?—Yes.

2243. Now, I don't want to ask you your detailed movements on the Saturday, but you went to town on the Saturday?—Yes.

2244. What was your object in going to town on the Saturday?—To purchase some goods.

2245. This man Madre—did you meet him in the township?—10  
Yes.

2246. What particular reason did he give you for being in town?—On being asked by me he told me that he was going to borrow some money.

2247. What did you do when he told you that?—I recollected that I should borrow some money for the expenses of removing my rice mill, and I said: "I will accompany you too," and I accompanied him.

2248. And were you successful in raising a loan?—No.

2249. I think you have since been successful in raising a loan?—Yes.

2250. You came back again after being in town some time—you came back again with Madre?—Yes. 20

2251. And on the way did you stop anywhere?—Yes. We stopped under a mango tree.

2252. What was the reason?—Madre had been injured previously and he said he got tired of walking so fast and for such a long distance, and he asked me to rest under the tree for his sake.

2253. Was it a cool or a hot day?—It was a very hot day.

2254. And while you were sitting under the tree did anybody come along?—Yes, Mandatt happened to come along.

2255. Did you expect to see him?—No.

2256. You know Mandatt, of course?—Yes. 30

2257. Have you known him for long?—Since I went to Mulomulo.

2258. And do you know where he lives?—Yes.

2259. Where does he live?—He lives in Mulomulo, in the same settlement.

2260. Can you say north, east, south or west of the rice mill?—East of the rice mill.

2261. How far, about, from the rice mill?—35 to 40 chains.

2262. To get from the rice mill is there one road or two roads—to get to his place from the rice mill?—I think there are more than two.

2263. There is one road that goes down past Narain's house; where 40 does the other one go?—Between Narain's house and Lalji's store you have got to cross over the field of Narain.

2264. Where is the other one?—On the left-hand side of Lalji's store.

2265. That is to say, looking from the rice mill towards Lalji's store?—Yes.

2266. Would you look at this plan? Would you say that where that road is marked would be about where that other road is?—Yes.

2267. When rice is brought to your mill is it brought along that track as well?—Yes.

2268. Just while I am on Mandatt, do you know his brother 50  
Rampersad?—Yes.

2269. And do you know where his land is, having relation to Narain's house and Lalji's store?—Yes. His land is between Lalji's store and Narain's house.

2270. Does it go anywhere near the road?—Yes, it comes to the road.

2271. Now I will just take you back again. You say you met Mandatt under this mango tree. Did you have any conversation with him?—Yes.

2272. Will you just repeat the conversation, as far as you remember it?—Yes. I asked Mandatt, "Where are you going?" He told me he was going to Tunalia, to his brother-in-law's place.

10 2273. Yes?—He told me in Hindustani, "I am going to get a 'hathiyar,' and I recollected that must be a weapon in English. He also told me, "You shall see I will cause a disturbance in the village within this week." So saying, he said, "I am getting late," and he went away.

2274. That was the extent of the conversation?—Yes.

2275. And Madre was with you at the time?—Yes.

2276. How was he going?—On a horse.

2277. Now after that did you continue on your way home?—Yes.

2278. I think Madre has said that yours and his way are the same way home?—Yes.

20 2279. Whose house did you come to first?—Madre's.

2280. About what time was it you met Mandatt?—About 4.30.

2281. In the afternoon?—Yes.

2282. When you got to Madre's house what did you do there?—Madre called me in and I had supper with him and after a few minutes' talk I went away.

2283. Did you have a watch at that time?—No.

2284. Can you give us an estimate of the time you left Madre's house?—A little over five o'clock.

2285. Then you went on your way home to the rice mill?—Yes.

30 2286. And how far was Madre's place from the rice mill?—About 70 to 80 chains.

2287. And then going home what did you do?—I came home, I heard the rice mill running and I went and rested in my bure.

2288. Did you see who was running the rice mill?—Yes. After a short while Hanif stopped the rice mill and came to me in the bure. I asked him "What has happened?" and he said, "All the paddies are finished and I have stopped the rice mill."

2289. Was your brother there?—Yes.

2290. What is his name?—Nathaniel Joseph.

40 2291. What did you do after that? You say you rested in your bure. What did you do?—I was tired and resting. Hanif had his bath. He came back and had his supper.

2292. Did you have supper with the family?—No. I had my supper at Madre's place.

2293. And you were in the bure when you were joined by Mohammed Hanif?—Yes.

2294. What were you doing in the bure?—I was sitting down there.

2295. What was he doing?—Having his supper.

50 2296. After that what did you do?—We rested there for another 15 minutes after Mohammed Hanif had his supper, then we came into the rice mill.

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2297. What time was it when you went into the rice mill?—About 7.30.
2298. Was there a lantern in the mill at all?—Yes.
2299. What sort?—Hand lantern.
2300. A kerosene hand lantern?—Yes.
2301. Do you remember whether the lantern was lit when you went in?—I lit it when I went in.
2302. Was the light put out before you went to sleep?—No. We just dimmed the light before we went to sleep.
2303. Is it usual to have a lamp alight at night?—Yes. 10
2304. What was the next thing that happened during that night?—It was somewhere about 1 or 2 in the night that my mother came banging the door.
2305. Yes?—Hanif woke, and he woke me up. By that time I saw my mother and my youngest brother and sister.
2306. What are their names?—Paul Premmasih.
2307. And your sister?—Hannah Daramani. They were crying.
2308. The children?—Yes, my brother and sister were crying.
2309. Did you open the door—or do you know who opened the door?—I don't know, but the door was open and my mother entered in. 20
2310. That is when you woke?—Yes.
2311. Did you mother say anything?—Yes, “Shots are fired here and what are you people doing?” I said I didn't hear any shots firing. She said “It is very dangerous and how are we going to save ourselves?” I asked her, “Whereabouts are the shots fired, above our rice mill. Hanif asked me to let us run and hide ourselves in the bush there.
2312. What did you suggest?—I said, “No, it is very risky because the night is a moonlight night and we will be seen by the people who are shooting.” And I told him the best idea was to lie down.
2313. Did you lie down?—Just as I said to lie down we heard three 30 shots. Immediately we lay down.
2314. Could you say from what direction these shots came from?—Yes.
2315. Where?—Just beside the rice mill.
2316. Beside the shots did you hear any other noise?—Yes.
2317. What?—The galloping of a horse along the road.
2318. Did you only hear the sound of one horse?—Yes.
2319. Prior to your mother coming and banging on the door, did you hear any shots?—At that time I did not hear any shots.
2320. It is alleged that there were four or five shots fired before 40 that down near some mango trees some distance away. You didn't hear those shots?—No.
2321. You say you heard three shots, and how long did you remain in the tin house?—We kept on lying for about 30 to 35 minutes and when we found everything silent we got up and went back to sleep and my mother went out to the bure.
2322. You didn't have a look outside?—No. I took the light and put it under the bed.
2323. Why were you people so afraid of bullets that night? Had anything happened to your rice mill before that?—Yes, previously bullets 50 were shot at my rice mill.
2324. Did they strike the mill?—Yes.

2325. And I think they were shown to the police, were they not?—  
Yes.
2326. And after that the police were stationed there to protect you?  
—Yes.
2327. How did you come to wake in the morning?—My mother  
came in to wake me up.
2328. At what time did she wake you?—Well before sunrise.
2329. What did you do?—My mother woke me and called me. She  
asked me to recognise the car stuck in the road, to see who it belongs to.
- 10 2330. There was a car stuck in the road?—Yes.
2331. Who did the car belong to?—I recognized it and told Mother  
that it belonged to Mr. A. D. Patel.
2332. What did you do then?—I woke up Hanif.
2333. What did you do after waking him up?—My mother told me  
that there was a crowd of people round Chotabhai's store.
2334. Did you see the crowd?—Yes, I saw a few people standing.
2335. What did you do then?—I told Hanif "The shots must have  
been fired there. Let us go and see what has happened."
- 20 2336. Did you go?—No. We started to go.
2337. What stopped you?—When we crossed our fence the chauffeur  
of Mr. A. D. Patel called out for us to help him.
2338. It had been raining heavily about that time?—No, it wasn't  
raining.
2339. Had it round about that time been raining?—Before that it  
rained.
2340. And did you go and help to get the car out?—Yes.
2341. What did you do after that?—Then I intended to go to Chota-  
bhai Patel's store. When I came in front of my gate I saw Sub-Inspector  
Lal Singh and some Fijian constables with him who were in my  
30 compound. Sub-Inspector Lal Singh asked me: "Where is your father?"  
I told him "My father is in Vitogo." He asked me if he could search  
my house. I told him he could do so.
2342. And your house was searched?—Yes.
2343. After the search, what was done then?—The search went on  
for a long while, and even my shoes were taken to the marsh.
2344. They were brought back to you?—Yes.
2345. And they were left with you?—Yes.
2346. Well, what happened after that?—Hanif was also with me,  
and S/I Lal Singh ordered him to stand separately. He stood apart.
- 40 After the search was over, Const. Ramcharitra took Hanif's statement,  
and incidentally he was carried away in the police van.
2347. Taken away in the police van?—Yes.
2348. After he had made his statement?—Yes.
2349. Were you told whether you could go away or remain? Were  
you given any instructions as to what you were to do?—After that my  
statement was taken.
2350. And that was a statement taken by Ramcharitra?—Yes,  
and we were told not to leave our compound.
2351. I think the whole of the rice heaps were examined to see if they  
50 hid arms?—Yes, and chaff.
2352. Was anything found, to your knowledge?—No.
2353. Did you go up to Chotabhai's at all?—Yes.

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2354. What time was it when you went there?—I went there about 9 o'clock.

2355. That is after your statement had been taken?—Yes. I took permission from Constable Ramcharitra and then I went over there.

2356. What did you go over there for?—I went to see whether the shots had penetrated and what loss it had brought.

2357. And you saw, I suppose, that the building had been shot at?—Yes.

2358. And I suppose you learned too that his child had been killed? —Yes, that was told me by Constable Tulsiram. 10

2359. There was a funeral in the afternoon?—Yes.

2360. The same afternoon?—Yes.

2361. Did you attend the funeral?—Yes.

2362. I just want to take these statements you made. The first statement I think you made was to Ramcharitra?—Yes.

2363. And, according to this record, it was made at 7 a.m. at Mulomulo?—Yes.

2364. And you say it was taken not within the hearing of Mohammed Hanif?—Away from him, yes.

2365. Now that statement that you made there, to the best of your 20 memory is that substantially correct?—Yes.

2366. Then I think later on at 9.45 p.m.—that is, in the evening— at Mulomulo, Inspector Spencer asked you for further information and further amplification to your statement?—Yes, he asked me to give a statement.

2367. And you gave him that statement?—Yes.

2368. And that statement is substantially correct?—Yes.

2369. I am going to take you into a statement you made to Inspector Pratap. After being arrested and charged and brought before the Nadi Court I think you were remanded in custody to Lautoka, weren't you?— 30 Yes.

2370. And at Lautoka did you make a request to anyone to make a statement?—Yes.

2371. Who did you make the request to?—First of all I referred to our Superintendent there, Rathar Singh, Sergeant-Major, and he said, "You had better ask the Superintendent, Mr. Baker," and it was through S/M Rathar Singh that he was asked.

2372. You were then under the control of the gaol authorities?— Yes.

2373. And the message was sent to Mr. Baker, the District Officer? 40 —Yes.

2374. And later on Inspector Pratap came to you?—Yes.

2375. What I want to ask you is, why was it you wanted to make that statement?—I realised that in my third and fourth statements there were false things written and I had to omit them.

2376. So that much of what you said in your third and fourth statements was not free and voluntary?

*The Court:* What he said was "I made that statement because I realised there were false things in my third and fourth statements which —(To witness) Didn't you say something about something having to be 50 omitted?"

*Witness:* 2377.—Yes.

*To Court* : 2378. " Which had to be omitted " ?—The things that were false.

*Chalmers* : 2379. The third statement you refer to was taken I think by Superintendent Hooper on the 6th. In that statement you mentioned Rampersad's name, I think ?—Yes, I did.

2380. Were you asked questions about Rampersad ?—Yes.

2381. Who asked you questions about Rampersad ?—Superintendent Hooper.

2382. This is part of your statement : " I wish to tell the truth. About 3–4 months ago Rampersad went to Chotabhai's store. Rampersad was chased away by Chotabhai." Was that correct ?—Yes.

2383. You know of that incident ?—Yes.

2384. Can you tell us how long before this trouble took place, and what it was about ?—A little over a month.

2385. Do you know what the cause was ?—Why he was chased away from the store ?

2386. Did you ask him what for ?—Yes.

2387. Why ?—He said Chotabhai Patel suspected him of throwing stones at his store.

2388. You say : " Rampersad said that he would fix him up " ?—Yes.

2389. He told you that ?—Yes.

2390. Did you say this : " I asked him why he threw stones at his store and he said he had not " ?—Yes.

2391. Did you say this : " About the middle of December Rampersad came to the rice mill with paddy " ?—Yes.

2392. " He asked me for my car." Did you say that ?—No.

2393. Did you say : " Madre was present and heard what he said." ?—No.

2394. " Hanif was also close by and probably heard " ?—No.

2395. " I asked him why he wanted a car and he said he wanted to get a rifle " ?—No, that is not true.

2396. " I asked where he wanted to get it from, he said from Rameshwar Prasad's place in Savu Savu " ?—No.

2397. " I told him I could not take my car for this business because it might be searched on the way. I also said that my tyres were old and could not go so far. I did not say that I would get a car from Warid " ?—No.

2398. " I did not ask him why he wanted the rifle." Did you say this, or were these put in the form of questions which you answered ?—Those were in the form of questions.

2399. When those questions were put to you did you admit that such things took place or did you deny them ?—I denied them.

2400. Now in your third statement—fourth statement—you mentioned that on the night of the shooting Rampersad had come to your house and told you something ?—I didn't say that.

2401. Is that true—that Rampersad came to your house and spoke to you—the night of the shooting ?—No, he didn't.

2402. You remember the statement, given to Inspector Lal Singh ?—Yes.

2403. Now this statement which was taken on the 8th just before you were arrested—do you remember that statement ?—Yes.

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2404. Where had you been that day ?—I was in Lautoka that morning and I went to Nadi on the 10 o'clock bus.

2405. And were you picked up in Nadi ?—Yes, I was taken in the lorry just as I reached Nadi.

2406. Where were you taken to ?—To the Police Station.

2407. What happened at the Police Station ?—I was presented before the presence of Superintendent Hooper.

2408. What took place ?—He told me: "You are the ringleader of the gang and it is all due to you that the shooting is done, and you have shot, and this gun belongs to you," and so on, and I told him, "I know 10 nothing about these things."

2409. Were you asked to make any statement ?—I was forced to make a statement.

2410. Did you say that you wanted to write something—make a statement yourself in your own handwriting ?—Yes.

2411. Who did you ask ?—Sub-Inspector Lal Singh.

2412. What did you want to write ?—I wanted to write that whatever I had stated in my third and fourth statements, parts of it were false.

2413. Was this request made after you had made the fourth statement ?  
—Before I made the fourth statement. 20

2414. You wanted to write something ?—Yes.

2415. What did you want to write ?—That I didn't say such words as are in my third statement.

2416. "Fourth statement" is wrong ?—Yes.

2417. And were you given paper to write on ?—Yes.

2418. Did you write then ?—I commenced writing.

2419. And then what happened ?—When I finished it was handed to Superintendent Hooper.

2420. By whom ?—Sub-Inspector Lal Singh.

2421. What happened about that statement ?—That statement was 30 torn and put into the rubbish tin.

2422. Were you told why ?—They told me "This statement is of no use to you."

2423. There was another statement. Did anybody else start to take a statement from you ?—Sub-Inspector Lal Singh started taking a statement from me.

2424. What happened about that statement ?—That statement was torn.

2425. What was said about it ?—That statement was similar to my second statement. 40

2426. Did anybody say that ?—No, I gave a statement similar to my second statement and they said: "We don't want this statement: we have already one of this sort. You are repeating what you have said."

2427. What was done after that ?—After that I was taken in the presence of Superintendent Hooper.

2428. Into his office ?—Yes.

2429. Where was Lal Singh ?—He was seated there also.

2430. And what was done there ?—Another statement was taken from me.

2431. Who took the statement ?—Lal Singh. 50

2432. In his evidence here he said he told you that it would be best for you to tell the truth, or something like that. Did he tell you that ?—Yes.

2433. And when you made your statement to him outside did you tell him about this statement, whether it was the truth or not? The statement you made to him outside when he said to you it would be better for you to tell the truth, did you then make that statement to him which was subsequently torn up?—Yes. It was torn up.

2434. Do you remember, when you were taken into Superintendent Hooper's office how many were there?—Six.

2435. Can you give us the names of them?—Supt. Hooper, Supt. Spencer, Sub-Inspector Lal Singh, Const. Howsil, Const. Nanka Singh.

10 2436. Were all these different officers asking you questions in there?—Yes.

2437. What time was this questioning started?—About 11 o'clock.

2438. And when did it finish up?—About six o'clock.

2439. Was the questioning going on all the time?—Yes. I was relieved for one hour in the afternoon, for my dinner.

2440. Were Supt. Hooper and Supt. Spencer there all the time?—No. Supt. Spencer came in the middle of the statement.

2441. Did he remain there all the time?—Yes.

2442. What about Supt. Hooper?—He was seated there.

20 2443. Did you say anything when some of these questions were put to you?—I was questioned. Questions upon questions were asked from me and I was to answer them, and while I was worried and tired I said: "Please yourself whatever you write." I was altogether baffled and my brain started fluctuating.

2444. Were you questioned at all about Rampersad and Mandatt?—Yes, I was questioned about them.

2445. What did you have to say in connection with Rampersad?—I had to say nothing about Rampersad.

30 2446. Can you remember any questions that you were asked about him?—Yes. "Rampersad came to you in the night, didn't he?"

2447. Who said that to you?—Superintendent Hooper. I said, "No, he didn't come." "Didn't he come with Mandatt and Rampratap?"—"No." "He came with Mandatt and Rampratap." I said "No." "He called you out." I said "No." He said, "Yes, he called you out."

2448. And what did you say when you were pressed like that?—I couldn't say anything. I said, "It is up to your pleasure whatever you write."

2449. And in fact it is not true that Rampersad had ever come?—It was not true.

40 2450. You mention here that you had had a conversation with Mandatt on the Sunday. Was that true?—No, that was false.

2451. Did you see Mandatt up there at all?—I saw him in Valji's compound, but he didn't come to me.

2452. You say you never had any conversation with him at all?—No.

2453. Did you see Rampratap at all on that Sunday?—No.

2454. You had no conversation with him?—No.

50 2455. Well, I would like to ask you just one more question. Why was it you mentioned at all, if it was not true, that Rampersad came to your house that night?—It wasn't me who mentioned it of my own will.

2456. Did you know that Rampersad had been before that at the station?—He was there before that.

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2457. Did you see Rampersad at all up at Mulomulo on the Sunday or Monday?—No, I did not.

2458. You don't know when he was taken to the station?—He was taken to the station on the Monday.

2459. Do you know when he left the station?—Yes.

2460. When?—On the Wednesday afternoon.

2461. Did any of the police tell you that Rampersad was at the station?—Yes.

2462. What did they tell you he was there for?—Because he was also in the company of Mandatt and Rampratap. 10

2463. That is what they told you?—Yes.

2464. Who told you that?—Constable Howsil.

2565. Did you at any time own this gun, or have this gun in your possession—the gun that is in Court?—No, never.

2466. I think one of the accused said that you had given him the gun to look after at Tunalia?—No.

2467. That wouldn't be correct?—That is not correct.

2468. You have also heard statements I think made to the police by the accused that you had accompanied them and had gone with them in connection with the shooting?—Yes. 20

2469. And that you shot from two places: you shot at Lalji's store as well as shooting at Chotabhai's store. Is that true?—That is not true.

2470. One of the accused says that both of them came to your house; they were there fairly early in the evening until late into the night?—That is not true.

*Xad.*

Cross-  
examina-  
tion.

*Crown Counsel:* 2471. This expedition to Nadi on the Saturday. You weren't going to borrow money on that day?—No.

2472. Your original intention was to go to Nadi to buy some goods?—Yes. 30

2473. Can you remember what the goods were that you wanted?—Yes. A packet of matches and a bottle of oil.

2474. And you walked—you went on foot?—Yes.

2475. Wasn't it your practice to go in a taxi?—No.

2476. It is quite a long walk, isn't it?—Yes, it was a walk of four miles.

2477. You walked four miles, then, to get a bottle of oil and a packet of matches; is that right?—Yes.

2478. Why didn't you take the taxi?—The road was bad. 40

2479. And you met Madre in town?—Yes.

2480. And it was then that you first thought of borrowing money?—Yes.

2481. You had arranged to move this rice mill before?—Before this accident, yes.

2482. Had you never thought about borrowing the money before?—I had thought of borrowing the money before.

2483. But you had a sudden inspiration when you got to Nadi that day?—Yes.

2484. You had taken no steps to borrow money to move the rice mill up till then?—No. 50

2485. Why didn't you buy your matches from Chotabhai Patel ?—  
Because I had to meet another person in town, to buy a horse.

2486. Why didn't you mention that horse before ?—Because I couldn't meet the person who I was to buy it from.

2487. You said you went to Nadi to buy goods ?—Yes.

2488. I put it to you that you wouldn't have gone near Chotabhai's store at any price to buy anything ?—No.

2489. Very well. You met Madre and you tried to borrow some money ?—Yes.

10 2490. You walked back with him ?—Yes.

2491. And rested under this mango tree ?—Yes.

2492. How far would that be from the turn-off from the main Queen's Road ?—About three miles.

2493. Is that before you get to the turn-off, or after the turn-off ?  
—Before you get to the turn-off.

2494. Is this mango tree beside the Queen's Road ?—No, it is not beside the Queen's Road.

2495. It is on the back road, is it ?—Yes.

2496. How far before you get to Madre's house ?—About two miles.

20 2497. And from yours ?— $2\frac{1}{2}$  miles.

2498. And you were sitting under this tree when Mandatt came along ?  
—Yes.

1 p.m. Adjourned.

2.15 p.m. Resumed.

2499. Now are we to understand that this trip you made to Nadi town on the Saturday was to buy a horse ?—I had several matters.

2500. What were some of the other matters now ?—I especially had to go to town ; I wanted to go to town.

2501. Was it to meet Madre ?—No.

30 2502. You wanted to go there for several reasons. You first of all mentioned that you wanted a packet of matches and a bottle of oil ?—  
Yes.

2503. That was two of the reasons ; then you added that you wanted to buy a horse. Is that the lot ?—Moreover I had to go to town. I wanted to go to town.

2504. Is there any reason ?—Saturday is one of the days to go to town and I had to go to town. Besides that I had to see if there was any mail.

2505. You had to see if there was any mail. Anything else ?—No.

40 2506. As a matter of fact the packet of matches and the bottle of oil were a very unimportant part of your reason for going to town. You could have bought them from Chotabhai or Lalji ?—Yes.

2507. However, you did meet Madre ?—I met him near the Nadi theatre.

2508. He is a friend of yours ?—Not a friend of mine.

2509. Well you have heard Chotabhai say that he is friendly with you and that you go about with him at night ?—No, that is not true.

2510. And then you set off home with Madre and, as you say, you came to this tree ?—Yes.

50 2511. You took a short cut leaving the main road at the Temple ?—  
Yes, I took a short cut.

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tion.

2512. And what you say is that Mandatt told you that he was going to get a weapon?—Yes.

2513. And he told you he was going to Tunalia. Was this place where you met him on the way to Tunalia—this mango tree?—I can't say.

2514. Don't you know the way to Tunalia?—No.

2515. You don't know how far from Tunalia it would be?—That mango tree was between Nadi and Mulomulo.

2516. How far would you have to go to get to Tunalia?—That I don't know.

2517. You have never been to Tunalia?—Never.

2518. I suppose you do realise that it is quite a serious matter shooting into somebody's store at night?—Yes.

2519. And killing somebody in the process?—Yes.

2520. And you agree that a person who does that sort of thing ought to be brought to justice?—Yes.

2521. Didn't it occur to you that Mandatt must have had something to do with the shooting?—No, at the time the conversation was held I heard nothing of that sort.

2522. You didn't think of it?—No.

2523. When did you first think that Mandatt might have had something to do with it?—When he was arrested.

2524. It means this then, that you and Madre had a conversation with Mandatt in which he said he was going to get a weapon?—Madre didn't have a conversation; it was me.

2525. He was there?—Yes.

2526. And Mandatt further said he was going to make trouble in the settlement within a week?—Yes, he would cause a disturbance.

2527. And that very night there is some shooting in the settlement?—Yes.

2528. And it never occurred to you that Mandatt might have had something to do with it?—No.

2529. You didn't think this was a matter you might communicate to the police?—No.

2530. Is Mandatt a friend of yours?—No.

2531. You had no reason at all for keeping that information from the police?—I had reasons.

2532. What reasons?—Because I never took it as a serious matter.

2533. Why keep it from the police—that information?—Because it wasn't a serious matter.

2534. You admit that it was a serious matter killing this child?—The conversation between us was not.

2535. You didn't think it would be of any assistance to the police?—Yes.

2536. So you deliberately concealed it?—No.

2537. I am going to put it to you that you did?—No.

2538. And that it can be proved from your own statements—and I am not speaking of those statements of which you have said that Supt. Hooper bullied you into making portions of them. You made your first statement to the police on the 4th, and in that statement you didn't actually give any account of your movements on the Saturday?—No.

2539. There was no particular reason perhaps for you to mention this interview with Mandatt?—I wasn't asked for it.

10

50

2540. And that same evening you made a statement to Supt. Spencer ?  
—Yes.

2541. You are not suggesting that Supt. Spencer threatened you in any way ?—No.

2542. But he did ask you to give an account of your movements during the day ?—Yes.

2543. Did you mention in that statement anything about Mandatt ?  
—No.

2544. Why not ?—That thing went out of my mind.

10 2545. You had forgotten about it ?—Yes.

2546. In fact I think in that statement you specifically said that between the Sangam Temple and home you didn't meet anybody that you knew, is that right ?—Yes.

2547. Which, I put it to you, was completely false, because as a matter of fact you had met Mandatt and had a conversation with him ?—I didn't remember all about it, and I couldn't tell him because I didn't remember.

2548. But you remembered it later on, didn't you ?—Yes.

2549. You remembered it on the 6th, is that right ?—Yes.

2550. The next statement you made ?—Yes.

20 2551. What brought it to your mind ?—On being asked I changed my mind. I was asked : " Did you sit under a mango tree ? " I said, " Yes. " " Did you accompany somebody returning home ? " I said, " Yes. " Then when I remembered accompanying Madre I was asked whether I saw Mandatt and I said " Yes " and remembered the conversation.

2552. Still speaking of this statement you made to Mr. Spencer ?—  
Yes.

2553. You said you didn't mention seeing Mandatt because you forgot about it ?—Yes.

30 2554. Did you have any reason to conceal the fact that you had been with Madre ?—I have stated that I went home with Madre.

2555. In that statement ?—Yes.

2556. You mention there that you met Madre in Nadi ?—Yes.

2557. But you don't mention anywhere that you came back from Nadi in Madre's company.

*Chalmers* : He said : " I did not have dinner at home as I had already had it at Madre's place. "

40 *C.C.* : 2558. Well, I think we had better have a bit more detail about your movements that Saturday. You say you went in to Nadi town ?—Yes.

2559. And you have given us the various reasons for it ?—Yes.

2560. When did you go first to Nadi town ?—I came through the Nawaka short cut. I followed the main road for about a mile or two, came through the short cut and visited the Nadi Samgam Temple and there I met Dwarka Prasad, the lorry driver.

2561. And he took you with him to Nadi ?—Yes, to the town.

50 2562. What happened then ?—Another boy had accompanied me half way. He also came in the lorry, and he was parted from me and I don't know where he went. From there I went to the taxi stand there and had a talk with a few drivers until 11 o'clock, then I went away to a lorry garage belonging to Mr. Moyadeen. There I was talking with Yenkaia, one of the taxi drivers, and helped him in fitting valve caps.

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Cross-examination.
2563. And after that?—From there I returned to town about 2 o'clock.
2564. What happened then?—I stopped near the tennis court gate, and there I met Madre.
2565. And he came on to town with you?—Yes.
2566. After that you bought the matches?—Yes. Madre bought it for me.
2567. And you bought the oil too?—Yes.
2568. And after buying the matches and the oil what did you do?—We went to the Sangam Temple. There we stayed for a while and 10 returned back to the taxi garage again.
2569. Where did you wait at the Temple?—In the compound—the Temple compound.
2570. You and Madre?—Yes. Madre told me “I am going to borrow some money.”
2571. And it was after that that you went on to borrow money?—Yes. I said “I shall have to raise some money too.”
2572. You went and did that in his company?—Yes.
2573. Then what did you do?—When we were not successful we came back and I intended to go home. The day was very hot so I thought 20 of having a rest while the sun got a little lower. I rested in Rupnarain's car—taxi driver.
2574. Then you came on with Madre?—Yes.
2575. And you got to Madre's house about what time?—It was somewhere about 5 o'clock.
2576. And you had your meal there?—Yes.
2577. Why didn't you go on home?—He just called me, said “I am very hungry, I shall have a meal and you had better accompany me.” He insisted, so I went in.
2578. You agree that that is rather early to have a meal?—Yes. 30
2579. Nevertheless, you had a meal with him and went on home?—Yes.
2580. And, as you told the Court, you slept that night in the rice mill with Hanif?—Yes.
2581. And you also told the Court that after the shooting you heard a horse galloping past?—Yes.
2582. Was the man on this horse making any noise at all?—Not a noise but a sort of humming—a sort of chanting.
2583. And he went close to the mill, did he?—No, he followed the mangos. 40
2584. You couldn't recognize his voice?—Hanif remarked to me “Do you recognize the voice?” I said I couldn't.
2585. You were under the bed at that time?—We were on the floor at that time.
2586. You didn't think of having a look to see who the man was?—No.
2587. I suppose you were afraid to?—Yes.
2588. I suppose it struck you that this man might have had something to do with the shooting?—Yes.
2589. A very obvious thing, wasn't it?—Yes. 50
2590. In fact it might have been a very useful piece of assistance to the police to know that the man had gone that way on horseback?—Yes.

2591. Well, when did you communicate that to the police?—In my second statement, I think.

2592. Don't you think that should have been one of the first things you told the police? Why didn't you tell Ramcharitra about it?—He took a very brief account of my doings and whatever he asked me I answered him.

2593. Didn't you say this to Ramcharitra: "We did not hear any noise last night"?—I don't think so.

10 —2594. That is recorded in the statement that you heard read I think?  
—There must have been some misunderstanding.

2595. I think you have a fairly good intelligence?—Yes.

2596. You heard this statement read over and you signed it and all the rest of it?—Well, it was read over to me and it was early in the morning.

2597. It was too early in the morning for you to mention this fact that the man galloped on the horse?—Yes.

2598. You didn't think of it?—I didn't think of it.

20 2599. Or is it perhaps that you thought you were so safe you didn't need to put the blame on to anybody else at that stage?—No, nothing like that.

2600. Was your father at home that Saturday night?—No.

2601. He would be at Vitogo?—Yes, he was at Vitogo.

2602. The only people at home would be Hanif, your mother and your young brother and sister?—Yes.

2603. Am I to understand that you heard only three shots?—Yes.

2604. And they were from the direction of Lalji's store?—Below Lalji's store.

2605. What was the first thing that wakened you?—Hanif waking me up.

30 2606. And when Hanif woke you up what did you see?—I saw my smallest brother pulling my hair and he was waking me up too from the other side, and they were crying, and I saw my mother and brother and sister all in the same room. The door was open.

2607. How did Hanif wake you up?—He shook my body.

2608. He was sleeping in a bed on the other side of the store, is that right?—The other side of the room.

2609. And when you woke up you found him there shaking your body, is that it?—Yes.

40 2610. Did you ever tell the police that you woke Hanif up?—I don't think so.

2611. I am putting it to you that in your statement which you made on that Sunday evening you did say that; you said that you woke Hanif up?—It must have been a misunderstanding.

2612. I will put the passage to you. You said this to the police: "We closed the door and put out the light and then we went to sleep. Being very tired at having walked so far, I fell into a deep sleep. The next thing I remember was my mother banging at the door asking me to wake up. I got up and on opening the door I saw my brothers and sisters all behind my mother. I asked mother what was the trouble.

50 She told me that gun shots had been heard around this side and she asked me how shall we save ourselves. In the meantime I woke up Hanif and I asked him what shall we do now"?—I don't think so. It must be a misunderstanding.

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Exhibit BB.

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tion.

2613. That is another misunderstanding. The first time you threw any suspicion on Mandatt was when you told the police on the Sunday evening when you made your statement to Supt. Spencer that Mandatt had seen you and Madre and he was going to get a weapon. Was that the first time you threw suspicion on Mandatt?—No.

2614. When I say “suspicion” I mean said anything to the police that would put them on Mandatt’s track.

*The Court :* Madre was mentioned on the Sunday evening ; Mandatt on the following Thursday.

*C.C. :* 2615. It was only after Mandatt was arrested that you told 10 the police anything about it, is that right?—Yes.

2616. And as soon as he was arrested you did tell the police about this conversation under the mango tree?—Yes.

2617. And you have had a lot to say about what Mr. Hooper and other police officers did to you?—Yes.

2618. In this statement I am talking about—the one you alleged Mr. Hooper forced you to make—you proceeded to make the case against these people stronger, didn’t you, by telling other stories about them?—It wasn’t of my own will.

2619. But you started telling the police something about Mandatt 20 before Mr. Hooper ever threatened you, didn’t you?—No.

2620. But you did. You told the police that Mandatt said he was going to get a weapon and make trouble?—Yes.

2621. I am suggesting to you that when you felt that suspicion might be attached to you you proceeded to give the police further statements which would get Mandatt and other people into trouble?—That is not so.

2622. You say it was because you were threatened, is that it?—Yes.

2623. Have you any complaint at all to make against Supt. Spencer in this matter of threatening? Has he ever threatened you or anything 30 like that?—No.

2624. You say Mr. Hooper was responsible for all of it?—Yes.

2625. He threatened you then on the 6th February when you made that statement?—Yes.

2626. And that was the statement in which you said that Rampersad said that he was going to fix Chotabhai?—Yes.

2627. Which you say now is quite true?—Yes.

2628. And you also said that he came to you and wanted a car and was going to get a rifle?—That is not true.

2629. And also said that after the shooting you called Mandatt over and asked him who did it?—No, I didn’t. 40

2630. You said that to the Superintendent though, didn’t you—Mr. Hooper?—No.

2631. But you say that he wrote that down?—Yes.

2632. At any rate, it appears in your statement that you said Mandatt admitted the thing to you: “Mandatt said ‘We did it’”?—No.

2633. Did you ever complain to anybody later on that Mr. Hooper had treated you like that?—Yes.

2634. Who was the first person you told about it?—It was after I had given my statement to Inspector Shankar Pratap.

2635. After you were arrested and you were in custody?—Yes. 50

2636. Did you ever think of telling Superintendent Spencer about it?—No.

2637. Why didn't you say something to him about it?—Because early after 8th February I was arrested.

2638. Did you think it would be any use telling Mr. Spencer about it, or did you think Mr. Spencer would support Mr. Hooper?—No. The thought didn't come into my mind.

2639. You didn't think it was any use saying anything to Mr. Spencer about what had happened?—I never thought of it.

2640. And you didn't complain to anybody then until you were imprisoned and you made the statement to Mr. Pratap?—Yes.

10 2641. I suppose you had seen counsel before you made that statement to Inspector Pratap?—No.

2642. Well, you have heard the conditions under which the statements of yours were made pretty thoroughly examined, haven't you?—Yes.

2643. And you have heard evidence from Mr. Hooper and others as to what did happen?—Yes.

2644. And they say you were not threatened and that the name Rampersad was not suggested to you?—It was suggested to me.

2645. And what you are saying is that Superintendent Hooper is lying about that?—I should think so.

20 2646. I put it to you that in point of fact over a series of statements you thought suspicion against you was increasing and you have given more and more evidence against these other people to the police?—I don't think so.

2647. And as a matter of fact you volunteered that information because you thought the case was getting hotter for you?—No.

2648. You deny that. Now at one stage I think your father and yourself and your sister were all teaching at the Mulomulo school; is that right?—Yes.

30 2649. Under what circumstances did you leave that job?—I left on account of very low pay.

2650. The pay wasn't enough?—Yes.

2651. What about your father?—I have no idea why my father left.

2652. What about your sister: was it the same thing—that her pay wasn't high enough?—Yes, I should think so.

2653. And you honestly say you don't know why your father left?—The only thing I know is that he had a family and he found it difficult to support us.

2654. So that it comes to this: that the whole three of you left that school because it was not bringing in enough money?—That's right.

40 2655. And incidentally you left the quarters where you were living?—Yes.

2656. And you had nowhere to live?—No.

2657. Where were you going to live?—On my own premises.

2658. At the rice mill?—Yes.

2659. There wasn't sufficient accommodation for all the family?—There wasn't sufficient for the furniture.

2660. Why did you sleep at Chotabhai's?—Because Chotabhai said: "I won't be responsible for the furniture if you keep it here. You had better come and sleep here."

50 2661. And you slept there for that reason?—Yes.

2662. Did you get more out of that rice mill than you were getting out of the school, taking the family as a whole?—That is so.

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tion.
2663. You made more out of the rice mill than the whole three of you could draw from the school?—I wasn't in the rice mill; I was a taxi driver at the time.
2664. Your father was running the rice mill while he was a school-teacher?—No. He had a servant at the time.
2665. He had somebody driving the mill for him?—Yes.
2666. But he was receiving the income from the rice mill?—Yes.
2667. He dropped school teaching because the pay wasn't high enough?—That is what I reckon.
2668. And his intention was to run the rice mill?—Yes. 10
2669. What did he gain financially?—I don't know.
2670. He lost the wages from school teaching?—Yes.
2671. And he still had the rice mill and nothing else?—He has a store at present.
2672. Wasn't it a fact that what you really hoped to do then was to start a store?—At Mulomulo?
2673. Yes?—No. I had no idea.
2674. And you continued, all of you, to live at Mulomulo, existing on the rice mill and the taxi?—Yes.
2675. And in point of fact that didn't turn out successful?—It was 20 all right until another man put his rice mill there.
2676. Who was that?—A man named Arjun.
2677. Did you ever have trouble with people shooting round that place?—Once a shot was fired at my rice mill.
2678. One shot?—No. Seven shots were fired but two went through the tin.
2679. Were you there when that happened?—Yes.
2680. Was that matter reported?—Yes.
2681. Who reported it?—It is me who reported it.
2682. To whom did you make that report?—The police. 30
2683. Did you tell the police who you suspected of doing that shooting?—I was asked but I had no suspicion.
2684. You had none?—No.
2685. Now the police came out and I think there was a detachment of police sleeping at your rice mill?—That is so.
2686. For how long?—About four weeks.
2687. Did they come because of your report or because of another report?—That is what I don't know.
2688. You don't know?—No.
2689. And I suppose you and your family had many discussions 40 about this shooting?—No.
2690. You never talked it over with your father?—No.
2691. Was that because you knew who was doing the shooting?—No.
2692. Did you ever discuss with any member of the family who it might be?—That is what I didn't discuss.
2693. You never wondered who it could be?—No.
2694. You weren't very interested?—I was interested.
2695. But not enough to wonder who was doing it?—The police came and stationed there, and I thought if that is the case the police could 50 find out.
2696. Did you help the police towards that end?—Yes.

2697. Did you tell them whether you had any enemies in the district ?  
—I had no enemies.
2698. You told the police that, did you ?—Yes.
2699. Did your father tell them anything ?—That I don't know.
2700. You are telling us that you never discussed with your father the question of who might be doing the shooting ?—We never discussed about it.
2701. Did the police discover anything at all ?—I don't think so.
- 10 2702. Do you know whether they found any truth at all in the report that had been made about the shooting ?—The only proof was that a bullet had penetrated through the tin.
2703. I am going to put it to you that, in point of fact, you and the rest of your family didn't like these Gujerati storekeepers ?—No, that is not so.
2704. And your family was prepared to inform the authorities that it was Chotabhai and several others who did that shooting ?—That I don't know.
2705. And that you knew all about it ?—I didn't know.
2706. You admit that it would have been a big advantage to you if  
20 Chotabhai and Lalji had got out of that district ?—No.
2707. It would have been an advantage wouldn't it ?—Not an advantage.
2708. You could have started your store right beside the rice mill ?  
—That I don't know.
2709. In that case you wouldn't have needed to borrow money to move the rice mill ?—We moved the rice mill to Vitogo.
2710. You removed it to Vitogo and put up your store there. There was a bit of shooting round about there at that time, wasn't there ?—Yes.
- 30 2711. And there was even talk—I think you must have heard it—that a lot of Gujeratis were going to move out of the country stores because of the shooting ?—I never heard that story.
2712. Now, according to your evidence you had no quarrel of any sort at all with Chotabhai ?—No, I had no quarrel with him.
2713. You never even exchanged words with him ?—No.
2714. When you left his bure you did it on perfectly friendly terms with him ?—That is so.
2715. And as far as the jack affair is concerned it was nothing to do with you personally at all ?—Nothing to do with me.
- 40 2716. And in point of fact there is no reason why you should not be perfectly friendly with him to-day ?—No.
2717. You have never harmed him in any way ?—No. In no way did I harm him.
2718. Can you suggest any reason why Chotabhai should have told certain lies about you in this Court ?—He has to point out somebody.
2719. And you think he doesn't care if he gets the wrong man ?—That I don't know.
2720. That is the only reason you can suggest for Chotabhai saying, for example, that he had a row with you about the jack ?—Yes.
- 50 2721. And that you came up to his house and assisted your family in abusing him over the horse-riding business. Where did you get your water from when you first moved to the rice mill ?—From Chotabhai's well.

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2722. What happened after that ?—At the time when I was getting water from Chotabhai's well I was busy digging my own well, and after I dug my well I got water out of my well and stopped using Chotabhai's well.

2723. Wasn't it a fact that Chotabhai told you not to take water from his well ?—That is not so.

2724. I wonder if you could suggest why he said you were so friendly with Madre ?—I don't know. I wasn't so friendly with Madre.

2725. Did you ever visit his house, apart from the one occasion that we know about ?—At times when I had to borrow something. 10

2726. Did you ever have meals there ?—No.

2727. Did he ever have meals with you ?—No.

2728. I don't think you ever had any trouble with Subramani who gave evidence ?—Yes.

2729. You are quite friendly with him ?—Not so friendly.

2730. You mean you are more friendly with Madre than you are with Subramani ?—That is not so.

2731. You mean you are friendly with Subramani ?—I know him well but I am not so friendly.

2732. He gave evidence about Christmas Day when there was some 20 drinking going on in the rice mill ?—In the rice mill ?

2733. It may have been in the bure. And he said the conversation was all in English and he couldn't understand any of it. I just wonder if you can say what was being said—what was the conversation ?—I don't think there was very much conversation going on there.

2734. Who were present ?—Madre, Hanif and myself.

2735. What were you all doing there ?—Just having some beer.

2736. Were you celebrating any particular occasion ?—It was Christmas Day.

2737. And Madre celebrated Christmas with you, did he ?—He 30 happened to come up there.

2738. What for, do you know ?—I think he came to borrow some part of the horse collar, or something like that.

2739. Came to borrow a piece of harness ?—Yes.

2740. And he joined you in beer in the rice mill ?—Yes.

2741. And Subramani was there too ?—Yes.

2742. And he had a beer with you too ?—Yes.

2743. And you are at a loss to remember any of the conversation at all ?—No.

2744. Is that because you were drunk, by any chance ?—No. It is a 40 matter of a good many days, that is why I cannot recollect.

2745. You don't know any Latin. There is a Latin tag to the effect that when people are drunk they sometimes let the truth out ; you don't know that ?—No.

2746. I am putting it to you that on some occasion at any rate you, Hanif and Madre were discussing what you were going to do with Chotabhai and the Gujerati storekeepers in that district. I put it to you that you were the principal mover in the whole of this shooting business ?—That is not so.

2747. And that you and your family have been engaged in a feud with Chotabhai over quite a long period ?—No. 50

2748. As a matter of fact you have tried to make trouble by complain- ing that they were shooting at you, amongst other things ?—No.

2749. You deny knowing anything about it?—Yes.  
 2750. And that you got these other two accused into this thing in order to provide you with the weapon and ammunition you wanted?—No.

2751. And you thought that by shooting into Chotabhai's store you would possibly do some damage, or at any rate give him such a fright that he would pack up and get out of the district?—That is not so.

2752. You deny that?—Yes.

10 2753. And that as you were coming away from there after doing the shooting you also shot Lalji's store?—That is not so.

2754. For the simple reason that you thought it was better to keep Lalji quiet until you got home?—I deny all that.

*XXd.*

*Rice*: 2755. You have been fairly well educated, haven't you?—Yes.

2756. As a matter of fact, you went to a teachers' training college?—Yes.

2757. And passed a teachers' examination?—Yes.

2758. How long after that did you teach?—From 1941.

20 2759. Until when?—1944.

2760. You have told one of my friends that at some time or other you were a taxi proprietor?—Yes.

2761. When was that?—Somewhere from the middle of 1944.

2762. Until when?—Until I was arrested.

2763. You were still running taxis when you were arrested?—Yes.

2764. And your taxi was licenced in the Nadi district?—Yes.

2765. And you plied it for hire as a public vehicle?—Yes.

2766. Did you take it to the taxi stand in Nadi town?—Yes.

30 2767. And then plied all about the district, wherever anybody engaged you to go?—Yes.

2768. And in view of all that you are telling us you don't know where the road from Nadi to Tunalia is?—No.

2769. Despite the fact that you had a taxi there plying in the district all that time?—I have never been to Tunalia.

2770. In all the time you were running that taxi you never got a fare which took you to Tunalia?—No.

2771. Tunalia is only a mile or two out of Nadi?—That I don't know.

2772. Do you know where Koro is?—No.

40 2773. Have you ever been to Sigatoka?—Yes.

2774. Do you know where Yako is?—Yes.

2775. And you have never heard that on the Sigatoka road, after you leave Koro you have to go through Tunalia to get to Yako?—No.

2776. I suppose that when you had your taxi you took customers down that way?—No.

2777. Not a single customer?—I have taken them to Sigatoka.

2778. Never to Tunalia?—Never to a village called Tunalia.

2779. You have told us you went to Sigatoka?—Yes.

2780. That was not with your taxi?—It was with my taxi.

50 2781. Plying it for hire?—Yes.

2782. You also told my friend, Mr. Prichard, that you hadn't any enemies in the district?—That is so.

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Exhibit V.

2783. I presume you were talking about the Mulomulo district?—  
Yes.

2784. Mandatt, of course, lives in the Mulomulo district?—Yes.

2785. And I take it he wasn't an enemy of yours?—No.

2786. The third accused, Rampratap, would he be an enemy of yours?  
—Him I don't know.

2787. Then he wouldn't be an enemy of yours. You have heard  
Mandatt's and Rampratap's statements read, haven't you?—Yes.

2788. And you have heard each of them say in those statements that  
you despatched Mandatt to Tunalia with a message to Rampratap to get 10  
you a gun. You remember the part I mean, don't you? Mandatt's  
version of it is this: "I went to Tunalia after that. I left Manu and Madre  
sitting under a tree. I went to Rampratap's house in Tunalia. Rampratap  
was not at home. I sat down and Rampratap came home. I had my  
meal in the evening with Rampratap. After meal I told Rampratap that  
Manu wanted gun." That is what Mandatt said about it. Rampratap's  
version is this: "Last Saturday (3.2.45) Mandatt came to my house and  
said Manu wants the gun." So each of these two men, neither of whom  
you say is an enemy of yours, says that you despatched Mandatt there to 20  
get a gun from Rampratap. Can you suggest any reason why they should  
lie about you like that?—Would you be good enough to read the first  
statement of Mandatt from the beginning—the conversation under the  
mango tree?

(Mr. Rice reads first portion of statement Ex. Q: "After being  
cautioned . . . I said to get the gun.")

2789. I am asking this question: why these two men, neither of whom  
is an enemy of yours, should tell lies about you like that? Can you suggest  
any reason?—I would say that Mandatt lied about me because I had  
given my statement about the conversation.

2790. What about Rampratap: he is a man you say you don't know, 30  
and yet he has told a lie about you?—Because in my third statement I  
named him.

2791. I am afraid I don't follow your explanation. You have said  
you didn't know him before this time. I have read to you a passage which  
says he told the police that he got a message saying you wanted a gun  
from him. I have asked you why he should tell a lie like that?—After-  
wards he must have told a lie because he realized that through my statement  
I named him.

*The Court:* He says he did it because he had heard he had mentioned  
his name in his statement, which he had done on the 6th. 40

*Rice:* 2792. Now, do I understand you to say this: that you had  
made up your mind to shift the rice mill before the shooting had taken  
place?—That is so.

2793. Quite definitely?—Yes.

2794. When were you going to remove it? Had you decided?—  
Yes.

2795. When?—Somewhere in February.

2796. And where were you going to remove it to?—Vitogo.

2797. And you and your father, I suppose, had come to this decision  
together?—No. 50

2798. You had come to it off your own bat?—No. My father told me of it.
2799. Your father told you that was the decision he had come to?—Yes.
2800. Well, you heard his evidence, and he said it was not shifted until April or May?—Yes.
2801. Do you know why the long delay?—Yes.
2802. Why?—Through my being arrested.
2803. Who was the moneylender you went to in Nadi that Saturday?—I didn't particularly want to go to the moneylender; Madre went to him and I accompanied him.
2804. Who was he?—Karuparman.
2805. You didn't put the loan proposition to him?—Yes.
2806. You did. How much did you ask him for?—£150.
2807. And what security did you offer him?—The lorry.
2808. But that wasn't registered in your name, was it? I think you told us it was in your father's name?—Yes.
2809. Did you have your father's authority for that?—Yes.
2810. When did he tell you that?—Before he went to Vitogo.
2811. How long before you put the proposition to Karuparman?—A day or two.
2812. To try and borrow £150 on the lorry?—Yes.
2813. What were you going to use the £150 for?—For removing the engine and putting up a new house.
2814. Where were you going to build the new house?—At Vitogo.
2815. I thought you were going to shift the mill for that purpose?—No.
2816. What was going to happen to the removed mill material?—It was going to be removed to Vitogo.
2817. To build a concrete house would you want them?—A concrete floor.
2818. Where do the old rice mill materials come in if you were going to put up a new concrete house?—It was going to be enlarged.
2819. You were going to use both the old materials and the new?—Yes.
2820. You did subsequently borrow money?—No.
2821. Do you know how the removal was made when it did come off?—No.
2822. What was the removal expense?—I can't say.
2823. I am suggesting this to you. I am suggesting that at the time your father first went to Vitogo you know perfectly well there was no intention to shift that mill at all—that you were going to try and set up a store there yourself?—That is not so.
2824. And that it was not shifted until April or May of this year because it was felt that after this shooting it was perfectly hopeless?—That is not so.
2825. And you can make no other explanation for the delay in removal than the fact that you were in custody?—Yes.
2826. Do you know why Karuparman turned down your application for a loan?—He had no money at present.
2827. You didn't go to any other moneylender?—No.
2828. Did Madre go to any other moneylender?—That I don't know.

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2829. Not that day with you, at any rate ?—No.

2830. I have noted you here as saying in your evidence-in-chief “I have since borrowed the money.” Didn’t you say in your evidence-in-chief—that you had since borrowed the money ?—I did not intend to say that.

2831. What did you intend to say ?—I intended to say that I did not borrow since then.

2832. Coming to this conversation you have told us about on the Saturday afternoon under the mango tree ; that is when you and Madre and the accused Mandatt were there. You know the occasion, don’t 10 you ?—Yes.

2833. You said Mandatt used the word *hathiyar* ?—Yes.

2834. And that he would create a disturbance within a week ?—Yes.

2835. You are quite sure Mandatt said that ?—Yes.

2836. You heard Madre give evidence in this case ?—Yes.

2837. You heard him say that at that time he did not even know Mandatt’s name ?—He said he didn’t know Mandatt’s name.

2838. Do you think it in the least degree likely that Mandatt would have said such a thing in front of a third party whose name he didn’t know ?—That I don’t know. 20

2839. I am going to put it to you that it was you who used the word *hathiyar* ?—That is not so.

2840. Well, I don’t pretend to any knowledge of Hindi myself, but I understand the word *hathiyar* may mean a tool, as well as a weapon ?—Yes.

2841. In fact, the more normal meaning is a tool, isn’t it ?—Yes.

2842. You wouldn’t expect a man who is going to create a disturbance with a *hathiyar* to use the word in its normal meaning of a tool, would you ?—That is so.

2843. Did you think to ask him what sort of a weapon it was he 30 was going to bring and create a disturbance with ?—Later on.

2844. You didn’t ask him at the time ?—No.

2845. And you didn’t ask him a single question about it ?—Never thought of it.

2846. Let us see how that weighs up with one or two other things. You have told my friend Mr. Prichard that shots were fired at your father’s rice mill not so very long before, and that you were so concerned about that that some police slept there for some time, keeping watch ?—Yes.

2847. You were genuine in that report ?—Yes.

2848. You don’t know who fired the shots ?—No. 40

2849. Here you meet a man on the roadside who tells you he is going along to bring a weapon and create a disturbance in the district. Didn’t it occur to you that he may have been the one that fired the shots ?—No.

2850. Didn’t it occur to you that it might be just as well to complain to the police ?—I didn’t think of it.

2851. Even though shots had been fired into your mill ?—No.

2852. I am suggesting to you that the reason why you didn’t suggest it was that you knew perfectly well that it was you who mentioned the word *hathiyar* ?—That is not so.

2853. Did you know that at that time—Saturday, 3rd February, 50 Mandatt had a sick sister at Tunalia ?—No.

2854. Did you have a conversation with Mandatt on the previous day, Friday?—No.
2855. You have told us about a piece of land that his brother, Rampersad, has which you say runs right up to the boundary of Narain's and Chotabhai's property?—Yes.
2856. There was work going on on that land that Friday, wasn't there?—I don't think so.
2857. Think hard. Weren't they planting rice or something like that?—I can't remember.
- 10 2858. Were you there on the Friday?—No.
2859. Where were you?—I was in town.
2860. All day?—I can't remember.
2861. Well try, because I am suggesting to you that you saw Mandatt that day. Let us try and get it out of you in another way. It was a rice block, wasn't it?—No, it was plowed.
2862. When did they plow it—about that time?—About two or three months before the incident.
2863. And having plowed it did they plant anything there?—Yes.
2864. What?—Corn.
- 20 2865. What sort?—Maize.
2866. And was it growing at the time of the incident?—Yes.
2867. Well, my instructions are that there was work going on there on that Friday and that Mandatt was engaged in the work?—I don't know.
2868. And you asked him whether he was going to Tunalia in the near future?—That is not so.
2869. And he told you that he was going down to see his sick sister, and you asked him then to call at Rampratap's and pick up your gun?—That is not so.
- 30 2870. That is all a pack of lies?—Yes.
2871. And you swear that you didn't even meet Mandatt on that day?—Yes.
2872. Didn't even see him?—Didn't even see him.
2873. Can you suggest why, assuming he went into the witness box and said that, he should tell such lies about you?—He must have a suspicion that it is through me that he is arrested.
2874. Is there anything you can suggest that might give him that idea?—Yes.
- 40 2875. What?—The conversation under the mango tree was stated by me in the statement.
2876. That is all you can suggest?—Yes.
2877. What about the Saturday? You swear you did not see him on the Saturday either?—I did see him.
2878. With the exception of the time under the mango tree?—I didn't see him.
2879. You didn't see him at all except for that one time on Saturday?—That is so.
2880. You say you went to Nadi on the Friday—that is the day before this shooting occurred?—I don't quite recollect it.
- 50 2881. But you did go away somewhere?—Yes.
2882. Do you remember how you went, whether on horseback, on foot or in your taxi?—I went on foot.

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Exhibit Q.

2883. Do you remember what time you left home ?—Yes.  
2884. What time ?—About nine o'clock.  
2885. Do you remember what time you returned ?—Yes.  
2886. What ?—Late at night.  
2887. What do you call late at night ?—About nine o'clock.  
2888. Where did you have your meal ?—At a man's place.  
2889. What is his name ?—Krishna.  
2890. What were you doing there ?—We were having a conversation.  
2891. Did you go and see him about anything in particular ?—Yes.  
2892. What ?—He had borrowed books from me and hadn't returned 10  
them.  
2893. And you went to get them back ?—Yes.  
2894. And you got them back ?—Yes.  
2895. And you were away then from early morning until late at  
night ?—Yes, that's right.

*Re-  
ad.*

*Chalmers* : 2896. You have been asked by Mr. Rice about the con-  
versation you had with the accused Mandatt ; do you remember that ?  
Under the mango tree. Now in his statement to the police made on the  
6th February Mandatt says this, and I want you to confirm whether this is 20  
the conversation that took place. " When I reached Nawaka I saw Manu  
and Madre on the road " ?—Yes, that is so.

2897. " Manu asked me where I was going " ?—That is so.

3898. " I said I was going to Tunalia " ?—Yes.

2899. " He enquired for what purpose " ?—Yes.

2900. " I said to get the gun " ?—No.

2901. In his statement he says : " I said to get the gun." What  
word did he use there ?—A Hindu word, HATHIYAR.

2902. " I went to Tunalia after that " ?—That is so.

2903. On that occasion there was no suggestion or request made by 30  
you to him to get any gun for you ?—No, nothing of that sort.

*To Court* : 2904. What time was it you went to try and borrow the  
money on that Saturday ?—About 12.30.

2905. What time ?—About 1 o'clock.

2906. And you were with Madre ?—Yes.

2907. But you said in your evidence that you didn't meet Madre  
until 2 o'clock, and you have said it also in one of your statements. Now  
which is correct ?—I must have guessed the time because I had no clock.

2908. You had guessed it twice and you have said two o'clock on each  
occasion ; and I ask you and you say at first 12.30, and now you say 40  
one ?—The time was somewhere about there. I didn't see a clock.

*To Assessor (Grahame)* : 2909. You stated previously you were a taxi  
driver ?—Yes.

2910. And plied for hire between Mulomulo and Nadi ?—Yes.

2911. Consequently you knew most of the drivers ?—Yes.

2912. Taxi drivers are always very friendly ?—Yes.

2913. Do you know Chengaiya ?—Yes.

2914. Most people travel by bus—they don't walk ?—Yes.

2915. What time does he leave Mulomulo ?—3 o'clock.

2916. Did you know him well enough to borrow his lorry ?—Yes. 50

2917. But you didn't, you walked ?—Yes.

2918. What was the condition of the road ?—Muddy.

2919. Very mucky, wasn't it ?—Yes.

2920. Did you wear shoes ?—No.

2921. You made a statement to Supt. Spencer who examined your shoes ?—Yes.

*Assessor.*

*Grahame :* Your Honour, I should like to ask Supt. Spencer a question, if it is possible.

10 ASST. SUPT. SPENCER. (Recalled—no objection.)

*Grahame :* 2922. Supt. Spencer, did you examine the accused's shoes that particular night ?—Not on the night of the shooting—on the following morning.

2923. Any reason for inspecting them ?—I wished to compare them with some footmarks.

2924. There were shoe marks found round about the scene ?—Yes.

4 p.m. Adjourned.

No. 33.

EVIDENCE of Elizabeth Joseph—D.W.2.

20 9.30 a.m.

Friday, 7th September, 1945.

FIFTH DAY.

ELIZABETH JOSEPH. Sworn.

*Chalmers :* 2925. You speak English but you prefer to give your evidence in Hindustani ?—Yes.

2926. Why ?—I wouldn't be able to express myself in English as I would in Hindustani.

2927. You are the mother of Emmanuel Joseph ?—Yes.

2928. And your husband, I think, has given evidence already in this Court ?—Yes.

2929. What other children have you beside Emmanuel Joseph ?—Six besides Emmanuel Joseph.

2930. Which is the eldest ?—Esther. Emmanuel is next, Nathaniel, Samuel, Grace, Hannah and Paul.

2931. I think those names are English names because you are Christian Indians ?—Yes.

2932. I just want you to tell us in the first place what happened. Do you remember the night in which Chotabhai's small child was killed ?—Yes. In the morning I came to hear of it from Sub-Inspector Lal Singh.

2933. Do you happen to know where your son slept that night ?—In the rice mill.

2934. What time was it, do you remember, when he went to bed ?—Roughly about 8 o'clock. I didn't have any time. I am just guessing.

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2935. Before going to bed where had he been, do you know?—In the morning he went to Nadi town.

2936. He has told us about his movements—about going to Nadi. I want to know about that evening?—He was in the thatched house. Lying down in the thatched house.

2937. The house in which you and your husband and the children live?—Yes.

2938. How far was that thatched house from the rice mill?—About 20 feet away.

2939. You employ a boy working in the rice mill by the name of 10 Mohammed Hanif, do you?—Yes.

2940. I think he was being employed after your husband went to Vitogo?—Yes.

2941. Where was he, do you know?—He was at home.

2942. At what home?—At our house.

2943. What house?—You mean, where did he sleep?

2944. In the early part of the evening—where was he spending the early part of the evening?—In the thatched house.

2945. What was he doing there?—Having his meal.

2946. And after having his meal what was he doing?—Playing cards 20 with my son Paul.

2947. Did Emmanuel and Hanif leave that grass house?—No.

2948. Did they sleep there?—When it was time to sleep they left the thatched house and went into the tin house.

2949. Did you see them go in?—Yes.

2950. And I suppose you and your family went to sleep yourselves? —Yes.

2951. Your husband wasn't home?—No.

2952. What next took place during the night?—After we had gone to bed, late at night, I don't know what time it was, I heard shots—gun 30 shots.

2953. Can you give any idea from what direction the sound came from?—From the slope, where the mango trees are.

2954. There is a hollow down there, is there not?—Yes.

2955. When you heard the shots what did you do?—I got up and, getting my little children, made them lie down on the floor of the house.

2956. What did you do after that?—When the reports of the gun stopped, with my children I went over to the rice mill.

2957. What did you go there for?—My son was there—the older boy— and I wanted to go and be with him. 40

2958. You say you went across. What did you do when you got across to the rice mill?—I knocked at the door of the rice mill and called out to Manu.

2959. Yes?—Then I called Hanif.

2960. Yes?—Then I banged on the door very hard and the door was opened from the inside. I entered first and all my children followed inside the house.

2961. On entering who was the first person you saw?—Hanif opened the door from inside and asked me what was the matter.

2962. Did you see if there was anybody else in the room at the time? 50 —Yes, Manu was sleeping.

2963. What happened to him?—I closed the door, then Hanif suggested to wake Manu up.
2964. Was he wakened?—My little daughter Tara pulled the sheet and shook him, and Manu got up.
2965. Yes?—Manu asked me: “What has happened Mother?” I told him that shots had been fired from the hollow. Manu again asked where the shots were being fired from and I told him from the hollow down below. Then three reports were fired.
- 10 2966. Where did these shots sound—the three that you heard?—Below our boundary; where our boundary ends.
2967. In which direction in relation to Lalji’s store?—It would be the front of Lalji’s store.
2968. Then what did you do, when you heard these three shots?—When these three shots were heard Manu suggested we all lie down on the floor.
2969. What did you do?—We remained lying down for some time, then after a little while Manu said, “Now you can go back to sleep; we will find out about this in the morning.”
- 20 2970. Apart from the three shots, did you hear anything else round about that time?—Yes, some time after the three shots were fired I heard as if someone on horseback was galloping past towards Mulomulo.
2971. Can you give us any idea as regards time—how long it would be after the three shots?—About a second or so after—immediately after the shots were fired.
2972. Did this person say anything, or did you hear any talk at all?—This man on horse-back, he was just chanting—murmuring—as he was going along.
2973. You couldn’t recognize anything from that?—No. He was humming a tune or something.
- 30 2974. Did you go back then to your own house and stay in the house?—Yes.
2975. When did you wake in the morning?—At dawn, the early hours of the dawn, I got up.
2976. What woke you then?—I wasn’t feeling well. I had a pain in the stomach, and I got up early.
2977. And what did you do when you got up, or what did you see?—I got up and washed my face, and then I went towards the rice mill. I noticed a car in a boggy place; it was bogged in marsh, soft earth. I called Manu.
- 40 2978. Yes?—Then I told Manu, I said, “Son whose motorcar is this?”
2979. How did you call him?—I called him by his name—“Manu, Manu.”
2980. And he came out?—Yes, he opened the door and came out.
2981. Did anybody else come out with him?—Hanif also came out.
2982. And when he came out what did you do?—I told Manu “Somebody’s motor car is bogged there.” Manu had a look at it and said to me, “It belongs to Mr. A. D. Patel.”
- 50 2983. What happened?—Then I noticed Manu and Hanif both go and wash their faces. Then I told these two boys that several people were gathered near Chotabhai’s store. I said, “There are quite a number of people down there.” Manu called out to Hanif and said, “Let us go and find out what it is all about.” Then Manu and Hanif went over the

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fence and were going towards Chotabhai's. Then I don't know what happened. I noticed they went towards A. D. Patel's car as if someone called them.

2984. Did you later go up to Chotabhai's place?—I noticed these boys pushing this car and when they pushed it out Sub-Inspector Lal Singh and another inspector and several constables came into my compound. Then they called out to Manu. When they called Manu I went up there too. Then the inspector and Lal Singh said, "We want to search your premises." First of all, he asked Manu, "Where is your father?" Manu said, "Father is at Lautoka." Lal Singh said, "I want to search your house." Manu said, "All right." Then the house was searched. 10

2985. I think this search lasted quite a long time?—The whole of the premises were thoroughly searched—the rice mill, house, thatched house, compound. They searched.

2986. Did you see anything done with any shoes?—Yes.

2987. What was done with the shoes?—To my recollection Mr. Spencer took the shoes down to the hollow.

2988. What was done to the shoes after that?—Then he brought the shoes back, handed them to Manu and shook his head.

2989. Now, Mrs. Joseph, you were, I think, subsequently interviewed by the police and gave your account of what you knew to the police, did you not?—Yes. 20

2990. Now I just want to ask you a few questions about this motive business. Do you know anything about trouble over a jack?—All I know about the affair is that my husband and Chotabhai were discussing something about a jack. Apart from that I don't know anything.

2991. Can you give us any idea how long before this shooting business you understood this trouble took place about the jack?—September of last year, I think.

2992. It has been given in evidence that there was trouble over one of your children being injured by being thrown off a horse. Do you know anything about that incident?—I was in the house, inside, at the time when this boy fell off the horse. Looking towards Chotabhai's when I heard the noise down there and quite a number of people gathered near Chotabhai's store. I saw a man holding the horse and a boy on the ground. Then I went over. 30

2993. Where was your husband at that time?—Manu and my husband were at Sabeto.

2994. What did you do then, Mrs. Joseph?—When I saw the boy's condition I spoke to Chotabhai and asked him why was it he had caused the boy to fall down. 40

2995. Before this had you spoken to the boy?—When I went near him the boy got up and stood.

2996. How did you know that Chotabhai had anything to do with this?—I asked the boy.

2997. Was Chotabhai there then?—Yes, he was standing there.

2998. What did the boy say about this?—The boy explained, "I was coming along on horseback and Chotabhai raised a stick up above, the horse shied and I fell down."

2999. Did any of the people say anything?—Yes. They were saying to Chotabhai that it was his fault, that he shouldn't have done such a thing. 50

3000. Did you say anything to Chotabhai?—I asked Chotabhai as to why he had caused the boy to fall off his horse. Chotabhai said, “I have small children with me and your son takes his horse along this way.”

3001. Did the matter end like that?—Yes.

3002. I think later, towards the evening, your husband returned, did he not?—Yes.

3003. And your husband, what did he do, after seeing the injured boy?—When his father returned the boy was in the rice mill and he had ashes all over him, and after noticing that he had ashes all over him asked him how he had ashes all over him, and the boy explained that he was going along on horseback and Chotabhai caused him to fall off the horse. Then my husband said “I am going to ask Chotabhai all about this,” and he took the boy and went over.

3004. Did you go too?—I followed later.

3005. Did you hear any part of the discussion?—They were talking for some time, and afterwards Chotabhai admitted he was wrong.

3006. Did your husband say anything?—No. Then we returned home.

3007. Was Manu there?—As we were returning—we had just left the steps of the store when Manu came.

3008. When you were interviewing Chotabhai was there any abuse or swearing at each other, or anything like that?—No, nothing like that.

3009. Was any report ever made of the incident or any action taken?—No. Nothing was said.

3010. The matter was finished after your husband had interviewed Chotabhai?—That’s right.

3011. And what did your husband do with regard to the question of riding?—He told Chotabhai, “If in future you see these children riding a horse, let me know; I will see that they don’t do it any more.”

3012. And did they do it any more after that?—No.

3013. Can you give us any idea how long after this incident the shooting took place?—Last year it happened.

3014. When?—Round about September.

3015. Except for those two incidents that you have told us about (you don’t know much about the jack—but about the child) have your family had any other trouble with Chotabhai?—Nothing at all.

3016. Chotabhai has said that when you first went there a bure of his was lent for your use or the use of your son: is that right?—When we first had gone there the rice mill wasn’t sufficient for the whole family, so, seeing our plight, Chotabhai suggested that we take our furniture and put it in his thatched house, and having taken the furniture there Manu used to sleep in the bure with the furniture.

3017. Had this jack incident anything to do with the removal of the furniture from that house?—After we erected our own thatched house then we removed all the furniture from there into our own thatched house.

3018. I might tell you that Chotabhai said that after this jack trouble he told Emmanuel to get out of that bure; would that be correct?—No, that would not be correct.

3019. He also says that from the date of your son leaving that bure you never bought any goods from his store; would that be correct?—The main staple food and things like that were bought from the town.

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Little odd things like matches and salt, and things like that my little children used to go and buy from Chotabhai's store, always.

3020. Did you buy matches by the packet, or how did you buy them then?—For cash, 3d. and 6d. worth.

3021. And before the time that you gave up occupation of Chotabhai's bure, did you purchase goods extensively from him?—In June 1943, during the war, we couldn't get any material in town, and we bought clothes and things from Chotabhai during that year.

3022. I think at that time a good deal of material was shifted from the towns to the country stores, was it not?—It may be so. 10

*Xxd.*

*Crown Counsel:* 3023. You mean that Chotabhai was engaged in the black market?—Probably.

3024. About this Saturday night when the shooting took place?—Yes.

3025. Isn't it a fact that you actually went into that place where Hanif and Emmanuel Joseph usually slept after the last shot had been fired?—No. After the shots I heard from the hollow had been fired I walked across and woke them up, and then, when I got them up, I heard the other three shots fired. 20

3026. These shots were quite easy to hear?—Yes, quite close to my house.

3027. And they woke you up from your sleep?—Yes.

3028. But they didn't wake up Hanif or your son?—They would be inside a bit.

3029. You don't think they would hear them so well?—They were sleeping when I went up there.

3030. I am still suggesting that you actually went in there after all the shots had been fired?—I swear that I heard three more shots after I got into that house. 30

3031. That was after you had woken up your son and Hanif?—Yes.

3032. I am going to suggest to you, Mrs. Joseph, that you went in there after you heard the shooting finished, to see how your son had got on that night?—As soon as I heard the shots—the first lot—we became frightened, myself and children, and being afraid we ran across to the rice mill for safety.

3033. You didn't think you would be safer if you stayed where you were?—I didn't think that.

3034. As soon as you heard these first shots you left that place, 40 with your children?—As soon as I heard the first lot of shots I got the children and we lay on the floor. When the firing ceased I took the children and ran across to the rice mill.

3035. Taking this suggestion a bit further, Mrs. Joseph, I am going to suggest that when you went into the rice mill the only person there was Hanif?—I went there and banged at the door—banged quite loud; knocked at the door and called out to Manu by his name, and then I called out to Hanif, then the door was opened; Hanif stood there near the door.

3036. Did Manu answer when you called him from the door?—No, he was sleeping rather heavily. 50

3037. He slept through the rifle fire and he slept through your calling him?—He is a boy that, when he goes to sleep, he goes right off to sleep.

Works hard during the day and then he is very tired during the evening, and he sleeps very heavily.

3038. Who opened the door?—Hanif.

3039. I have taken you this far. I suggest that when you went to that rice mill there was nobody there but Hanif?—I swear that when the door was opened Hanif was standing inside and Manu was on the bed sleeping.

3040. And I was going to suggest this also : that after you had woken up Hanif your son came in?—No. I saw him sleeping on the bed.

10 3041. And that he was wearing a pair of khaki shorts at the time and nothing else?—He had white singlet and white shorts on.

3042. And he was very excited at the time?—What for.

3043. And you didn't speak to him or anything. You just told him to go away and sleep?—No. He was right in the bed. He got up out of bed.

3044. Now, your family were all schoolteachers—that is to say, your husband and your son and your daughter were all teaching school?—Yes.

20 3045. And I think at a certain stage all three of them gave up teaching?—Yes.

3046. And they left the school compound at Mulomulo?—Yes.

3047. And your husband moved over to the rice mill?—The whole family moved.

3048. When was that?—February 10th, 1944.

3049. And you were then going to depend on the rice mill for your living, and also the taxi; is that right?—Yes, we had the rice mill, but at the same time we were thinking of some other business. We wanted to open up some place here in Lautoka.

30 3050. You mean a store?—I couldn't fathom what my husband had in his head at the time.

3051. Did you know enough about it to know he was thinking of starting a new business?—Yes.

3052. And it was a store?—Yes, that was the reason. Just recently purchased.

3053. You found that the rice mill and the taxi were not bringing in enough money, isn't that right?—During that time the taxi wasn't running at all; it was out of order.

3054. You had nothing but the rice mill?—Yes.

3055. And with it your husband moved to Vitogo?—Yes.

40 3056. When was that?—I don't know. November or December of 1944.

3057. What did he do there?—He opened up a store.

3058. Why didn't you go with him?—We decided to go away slowly after he settled here; we would remove our things slowly—our furniture and then ourselves.

3059. When did you actually leave?—7th July this year.

3060. That is about eight months after your husband left?—Yes.

3061. I am suggesting this to you : that you had it in mind to run a store of your own at Mulomulo?—No, I didn't know about that.

50 3062. Did you have that idea or not?—I had no intention. I don't know about that.

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3063. Why did you stay eight months at Mulomulo?—We were waiting until this place at Lautoka was finally settled with my husband and the owner of the land. There were some documents and other things to be prepared, and we were waiting for it.

3064. But it was quite in order for your husband to live over there?  
—Yes. He went away with some children.

3065. And started operating the store?—Yes.

3066. There was accommodation there for himself and his children?  
—Yes.

3067. And there was this accommodation for yourself and your son Emmanuel?—Well, when these things were finally settled we were coming away from the other side. 10

3068. And there were two storekeepers—Gujerati storekeepers—  
at Mulomulo?—Yes.

3069. It would have been impossible then to run another store at Mulomulo?—I don't know anything about that.

3070. I am suggesting that that is why you and your son wanted to make trouble for Chotabhai?—No.

3071. You told my friend Mr. Chalmers that you did hear of some trouble over a jack?—I have stated whatever I have heard. 20

3072. And that you did know about the trouble about your son being injured on falling off a horse?—Yes.

3073. And you say there was nothing else?—Nothing else.

3074. Was your son very badly injured when he fell off that horse?  
—He was slightly injured on his knee.

3075. Nothing serious?—No. Nothing serious.

3076. Now the only thing you ever did about that was go and see Chotabhai and talk with him quietly?—That is so.

3077. And you never heard of any member of your family holding anything against Chotabhai after that?—No. 30

3078. Did any members of your family ever have any suspicions against Chotabhai over anything?—I don't remember.

3079. Do you know of a report being made to the District Commissioner using Chotabhai's name?—If there was any such thing my husband would know about it; I wouldn't.

3080. I am asking you to swear now whether or not you knew anything about it?—I swear that I really don't know what was said to the District Commissioner or what report had been made.

3081. You swear that you don't know the report was made at all?  
—My husband knows about it. I don't know anything about these things; 40  
I don't pay any attention to those sort of things.

3082. Your store was shot at, wasn't it?—Yes.

3083. Do you know who did that?—No, I can't say who did it.

3084. Did you have any suspicion?—When I heard the shots fired and had gone there and seen the bullet marks, I went inside and saw that my children were all quite safe. It was a moonlight night, and looking in the direction of Chotabhai's store I saw three men walking away in that direction. That is all I know about it.

3085. Do you know a man called Koro?—Yes.

3086. And Gafur?—Yes. 50

3087. Were they the men that you saw walking towards Chotabhai's?  
—That is only a suspicion that it might have been them, because they usually go to Chotabhai's; they visit him and sit down there and talk.

3088. In other words, they are very friendly with Chotabhai ?—They ought to know whether they are or not.
3089. I suppose your whole family was at home when the shooting occurred ?—Yes.
3090. And Manu was there too ?—Yes.
3091. And I suppose he would see these three men too ?—No, he didn't see.
3092. You were the first out of the house ?—Yes. I was the only one that came out of the house.
- 10 3093. And naturally you told the rest of the family that you had seen this ?—Yes. My husband flashed a torchlight in their direction and he also saw as well as I that these men walked into Chotabhai's store.
3094. And that was Gafur and Koro. Anyone else ? I don't know who they were : I am only suspecting that it was these people.
3095. At any rate, they went into Chotabhai's store ?—Yes.
3096. And naturally you told the other members of your family ? Your husband had seen it and you had seen it.—We kept it to ourselves.
3097. Your husband and yourself ?—Yes. I don't know about my husband, whether he told anyone, but I didn't say a word about it.
- 20 3098. You never discussed this suspicion that it might be these friends of Chotabhai ?—No, I didn't say a word to any outsider about it.
3099. But amongst the family you must have discussed this suspicion ?—I don't remember whether I did or not.
3100. You didn't ever wonder amongst yourselves who had been shooting ?—No.
3101. You didn't ever mention to Emmanuel, for example, that you had seen three men making their way into Chotabhai's store after the shooting ?—I don't recollect now.
- 30 3102. And you don't know anything about a report being made to the authorities about it ?—Yes, the matter was reported to the police.
3103. How was it reported ?—The complaint was that shots had been fired at our house.
3104. And was that made direct to the police ?—Yes, direct to the police.
3105. Who made it ?—I don't recollect now as to who did it—who made the complaint.
3106. And the police investigated this, did they ?—Yes, they came and they found some bullets and they took them away with them, and then for about six weeks the police watched our house.
- 40 3107. Did they watch anyone else's house ?—I only know of my house, because they had their three meals there.
3108. Did anyone tell the police about these three men that you saw ?—I don't remember. I don't know whether they were informed or not.
3109. You didn't tell them you had seen these three men going to Chotabhai's store that night ?—No, I didn't speak to any police.
3110. You kept that to yourself ?—Yes.
3111. You weren't trying to help the police much ?—I don't know about that.
- 50 3112. At any rate, the police didn't find out who did this shooting ?—Well, I couldn't say what happened because they were searching about and making inquiries all over the place. What was the result I don't know.

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3113. They left and nothing happened, is that right?—Yes.
3114. What was done then, do you know?—I don't know what happened after.
3115. I put it to you that you know perfectly well that there was a letter written to the District Commissioner in which Chotabhai's name was mentioned?—No, my husband would know about that, if there was a letter written.
3116. I am going to suggest that you really instigated the writing of this letter, too?—No, I didn't say anything.
3117. Because you and your son wanted to get the Gujeratis out of 10 Mulomulo?—No.
3118. Well, you made a statement to the police the next morning—the Sunday morning?—Yes.
3119. About ten in the morning, to Superintendent Spencer?—Yes.
3120. Did you say: "I know my husband wrote a letter to Mr. Collins the District Commissioner mentioning the name of Chotabhai Patel and others"?—No, I didn't.
3121. Did you say: "I know why the police were quartered at our house because we were in danger from the people mentioned in the letter we sent to the District Commissioner"?—I didn't mention anything 20 of the sort.
3122. "And the police were sent to us in response to that letter"?—I don't recollect having said those things.
3123. You are going to swear that you didn't say these things at 10.30 on the Sunday morning?—As far as I can remember, when Supt. Spencer asked me as to what I knew of the affair, exactly what I have stated to my counsel, the very same thing I said to Supt. Spencer.
3124. In other words, you knew nothing of any report by your family to the District Commissioner?—No.
3125. Do you know Madre?—Yes. 30
3126. Is he on friendly terms with your family?—The interest we have in him is that he is a tailor and we asked him to come and make our clothes.
3127. The shooting really occurred late on a Saturday night—the present shooting?—Yes.
3128. During that Saturday did you send your young son anywhere on horseback?—Yes, to Madre's house.
3129. What time was that?—The police had taken away Mohammed Hanif, the man that runs the rice mill, and my other little boy was suffering with asthma, so I sent for Madre to come and run the rice mill for us. 40
3130. What time did you send for him?—About 3 o'clock in the afternoon.
3131. At 3 o'clock on the Sunday afternoon you sent for Madre?—Yes.
3132. To run the rice mill?—Yes.
3133. I think you are a Christian, aren't you?—Yes.
3134. And you wanted somebody to run your rice mill on Sunday afternoon?—No, it wasn't for the purpose of running it that day; it was just to inform him that he wasn't to absent himself on Monday; it was just to let him know that he wasn't to go away from the house. 50
3135. Where does he lives?—At Solovi.
3136. And he usually comes to the house with his tailoring?—About once in six months.

3137. And you thought you would send for Madre to run the rice mill ?—Yes.
3138. And you sent your son for him ?—Yes.
3139. That is the one who had asthma ?—Yes.
3140. He couldn't run the rice mill but was well enough to take a message to Madre ?—He has a weak heart ; he can't start the engine.
3141. You said it was asthma ?—He has a weak chest, and with this asthma and trouble with his lungs he can't crank the engine.
- 10 3142. Did you know that Madre had been with your son the previous day, Saturday ?—I didn't know this, but later on I came to know that he was with my son.
3143. I think your son went to town that Saturday ?—Yes.
3144. Did he have his evening meal when he came home ?—No.
3145. Why not ?—When I asked him to have his meal in the evening he said " I have already had something to eat at Madre's."
3146. Then you did know that your son had been with Madre ?—Yes, it was then I came to know.
3147. And I think you also knew that your son had had a conversation with one Mandatt that day ?—No, I didn't know then, but recently when  
20 this case started I came to know about this.
3148. And you heard the account that Madre gave of that conversation ?—When ?
3149. In the Court ?—Yes.
3150. I am going to suggest to you that he gave a somewhat false account of that conversation ?—That I don't know—whether Madre lied or whether he told the truth.
3151. And that you sent for him that day—that Sunday—so that you could tell him what to say ?—No.
- 30 3152. Where is Madre living now ?—He lives with his brother-in-law.
3153. Where ?—At Vitogo.
3154. That is where you live ?—No, we live on the top side of Vitogo, and they live towards the sea.
3155. When did you leave Mulomulo yourself ?—July 7th, I think.
3156. Was Madre still living near Mulomulo at that time ?—Yes.
3157. And then you shifted to Vitogo ?—Yes.
3158. How long after that did Madre leave ?—I don't know when he actually came from there. I saw him recently here and I asked him when he had come away here, and he said " About two or three months ago."

*Re-Xd.*

- 40 *Chalmers* : 3159. It has been suggested to you by Crown Counsel that the shooting was all over—that you never heard any shots at the time you went to the rice mill. And you were referred to what you had told the police at 10.30 on the Sunday morning. Did you say this in connection with that shooting ? " I sleep in the thatched room. I don't know what the time was but the next thing I remember was hearing gun shots. When I heard the shots my three children and myself got under the bed. I could not count the shots. They were very close. When the shooting ceased, I came to where Emmanuel and Hanif were sleeping in the rice mill ; both were sound asleep. I woke up Emmanuel  
50 and I woke up Hanif at the same time. I asked them if they had heard the shots and they both said ' No.' We sat there for a bit listening to

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see if there were to be any more shots. Then we heard three more in the direction of Lalji's store. We all got down on the floor. I then heard someone going away on horseback." You said that to Supt. Spencer?—That is my statement.

3160. At the time the shooting took place did you have a dog?—No.

*Crown Counsel* : I wish that statement proved. I would ask leave to ask the witness whether she admits the statement.

*Chalmers* : Can my learned friend do that now I have re-examined?

*The Court* : I don't think it makes any difference.

*Crown Counsel* : 3161. You can read English, can't you?—Yes. 10

3162. Just look at that and see if that is the statement?—(Witness reads statement). This latter portion of the statement. After having come to the close of the statement I was again asked by Lal Singh whether I knew my husband had written a letter to the District Commissioner; it was then I informed him and I knew of a letter—not before.

3163. Is the statement signed by you?—Yes.

3164. Is that your signature?—Yes.

3165. And you now agree that you made the whole of that statement?—Yes.

Exhibit  
DD.

(Statement read.)

20

*Chalmers* : May I ask a few questions on that?

*The Court* : Yes.

*Chalmers* : 3166. What had happened to Mohammed Hanif on Sunday morning?—After the search of our premises in the morning, Constable Ramcharitra—

3167. Did Mohammed Hanif remain there or was he taken away—that is what I want to know?—Inspector Lal Singh took him on board the lorry and to the station.

3168. Was that your reason then for sending for Madre?—Yes.

3169. To run the rice mill?—Yes. 30

3170. Did Mohammed Hanif come back after being taken away by the police?—No, he didn't.

3171. He never came back to run the mill?—No.

3172. That is the last time you saw him?—That is right, that is the last time I saw him.

*Chalmers* : That is the close of my case.

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No. 34.

EVIDENCE of Mandatt—D.W.3

MANDATT. Sworn.

(F/n Autar).

40

*Rice* : 3173. You live at Mulomulo?—Yes.

3174. Your occupation?—Farming.

3175. We have been told that one of your relations has a piece of land near Narain's house?—Yes, my uncle.

3176. And that block borders on Narain's property, does it?—Yes.
3177. Now on the Saturday before this baby of Chotabhai Patel's died, were you working in that field?—I was.
3178. What work were you doing?—Planting rice.
3179. And did you go home for your midday meal?—I was proceeding towards home with the bullocks round about ten or eleven o'clock.
3180. And on the way as you were going with your bullocks did you meet anybody?—Yes, I met Master Manu.
3181. Did he say anything to you?—Yes.
- 10 3182. What did he say?—He said, "Have you finished planting rice?" I said, "Yes."
3183. Anything else?—"Are you going to Tunalia on any day?"
3184. What did you say?—I said, "To-morrow or the day after I will go."
3185. Did you tell him what for?—He asked me why I was going and I replied that my mother had informed me that my sister was ill and I was to go and see her.
3186. Did he say anything else to you?—He said, "Pratap is a brother of your brother-in-law, isn't he?" I said, "Yes." He said
- 20 "Inform Pratap to bring my gun." I said, "All right, I will tell him."
3187. Did you know at that time that it was Manu's own gun?—I didn't know at the time that he owned a gun.
3188. Did you go to Tunalia the next day, Saturday?—Yes.
3189. How did you go, in a car, walk, or what?—Horseback.
3190. And on the way did you meet anybody?—Yes.
3191. Who?—Master and Madre.
3192. By "Master" whom do you mean?—Manu.
3193. Why, by the way, do you call him "Master"?—He is a school teacher. He was teaching there in the school.
- 30 3194. Well you met Manu and Madre?—Yes.
3195. Where were they?—They were coming towards me and I was going on the track.
3196. I think we have had it in evidence that to get from Mulomulo to Tunalia you have got to go through Nadi. Had you reached Nadi at that time?—No.
3197. Well, you met them. Did any conversation take place?—Yes.
3198. Tell us about that?—Master asked me, "Where are you going to?" I said, "I am going to my brother-in-law's to see my sister." He
- 40 said, "Inform Pratap to bring my thing."
3199. Now you heard Madre give evidence. You heard him say that at that time you said you were going to get a HATHIYAR and that you would cause a disturbance within the week. Is that true? Did you say that?—No.
3200. At that interview, then, did anybody use the Hindi word HATHIYAR?—Yes, Master said that.
3201. What did he say?—After saying, "Inform Pratap to bring my thing." When I said, "What thing?" he said "Hathiyar."
3202. Well, did you proceed then on your journey?—I then asked,
- 50 "What sort of hathiyar—what sort of weapon," and he said, "A gun."
3203. Did you proceed on your journey?—I left and went on.
3204. When you got to Tunalia what was the first place you went to?—I went to Baksh's house.

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3205. And what did you do there?—I tethered the horse up to his hedge and sat down.

3206. Did you stay there for a while?—Yes, about 5 or 10 minutes I was sitting down there at Baksh's house.

3207. Why did you tether your horse at Baksh's place?—I knew the man. He is known to us and his house is quite close to my brother-in-law's, and therefore I tethered my horse there.

3208. What is the name, by the way, of your brother-in-law?—Sadilal.

3209. Did you go on to Sadilal's place?—Yes. 10

3210. Does Rampratap live in the same compound as Sadilal?—Yes.

3211. Did you see Rampratap?—At that time Rampratap was not at his house.

3212. Did you see him before you left that compound?—You mean, when I left Baksh's compound?

3213. After you left Baksh's place, yes?—No. When I went to the compound he was not there. I waited there for him in Sadilal's compound; he arrived afterwards.

3214. And you saw him there, did you?—Yes.

3215. And did you deliver to him Manu's message?—No, not then, 20 because in the meantime I saw my sister coming.

3216. Coming from where?—From the hollow down below. From the hollow they were coming up towards the house.

3217. And did you see your sister?—Yes. I asked them where they had been to. She informed me that they had been to the hospital.

3218. And later on did you say anything to Rampratap about this gun?—Yes.

3219. What did you say?—I said to him: "Did Master give you a gun or something? He told me to inform you that he wants the gun."

3220. What did Rampratap say?—He said, "Yes he has given me a 30 gun and I have it with me."

3221. Did he say anything about taking it to Master in response to his message?—He asked me, "Are you returning back to-day?" I said, "No, I might go in the morning." Rampratap said, "If you desire to go now I will accompany you to your house." He said, "We will take the gun with us and deliver it to Manu as we go to your house."

3222. Was the gun got?—Yes.

3223. Who got it?—Rampratap.

3224. And did you two then go back to Mulomulo?—Yes.

3225. You had a horse; what about Rampratap?—He also had a 40 horse.

3226. Well, when you got to Mulomulo, you two—where was the first place you went to?—We went to Master's house first.

3227. Did you see Master?—Yes. When we came there we got off the horse, tied the horses, and Master was at home.

3228. At that time did Rampratap still have the gun?—Yes.

3229. What did he do with it?—We were standing there. Master called us in; he said "Come inside."

3230. I will get all that from you in a minute. What did Rampratap do with the gun?—He still had it in his hand. 50

3231. And he went inside?—Yes.

3232. When he got inside did he do anything with it?—Then Pratap handed the gun over to Master.

3233. After that did you two stay there, or did you go home, or what ?  
—Then I spoke, I said “ Master, I am going home.” He said, “ Are you going away now ? ” I said, “ Yes.”

3234. Did he say anything ?—Master then said, “ Are you coming back ? Will you come back ? ” I said, “ What for ? ” He said, “ When you come I will let you know.” He said, “ Pratap is here, and you come also.”

3235. And then you went home ?—Yes.

3236. Did you have a meal at home ?—Yes.

10 3237. And after that did you go back in response to his request ?  
—No, my uncle and my brother Rampersad were there and we were all sitting down. Then I informed them about my sister’s injury to the finger and how she had had it dressed in the hospital, and I also told them, “ Not tomorrow but the day after she has to go and have it operated on.”

3238. After that did you go back ?—When I remembered I had to go back, and riding the same horse, I went back.

3239. When you got there did you see Master ?—Yes.

3240. And Rampratap ?—Yes, I saw them both.

20 3241. Tell us what happened then, will you ?—Master said, “ Sit down,” and I sat down. And Master said, “ Chotabhai is doing quite a lot of business here ; I want to frighten him and chase him away from the district, and I want to erect my store here.”

3242. After that ?—I said, “ I can’t give you any information as to what you have to do in the matter—as to how you are going to do it. I can’t advise you.”

3243. What did he say to that ?—“ I am going to frighten him ; I am going to do it.” Then he took the gun out from inside his house and said, “ Come with me.”

30 3244. And what happened then ?—Taking the gun out he said, “ Come with me,” and Pratap and I got terribly frightened. We followed behind him, and going under a tree he said, “ Stand here,” so we stood there.

3245. We have had evidence that just below Chotabhai Patel’s store there are some mango trees. When you say “ a tree ” do you mean one of those ?—That is true.

3246. And did Master go anywhere then, or do anything ?—Master went about one chain ahead of us, further on.

3247. And what did he do ?—Fired the gun from there.

3248. At the store ?—Yes.

40 No. 3249. Did you do anything in connection with the shooting at all ?—

3250. After he had shot at Chotabhai’s store what did he do then, Master I mean ?—Coming back he said, “ I have frightened him now, let us go.”

3251. And where did you go to ?—Then we came back to our horses and stood near the horses. Seeing a person on the road, he said, “ I had better frighten him also and make him run away.” And fired the gun.

3252. Where did he fire it this time ?—A person was somewhere near Valji’s store. On the road near Valji’s store.

3253. Fired up that way ?—Yes, in that direction.

50 3254. That night after these shots were fired did you go back to your home ?—I wanted to get on my horse and run away home. Master got on his horse and Rampratap got on his horse and said, “ Come with us.”

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3255. Why did you go with them?—They had the gun with them and they scolded me and said “Come with us,” and I went with them.

3256. Who had the gun?—At that time Master had the gun.

3257. Well you say he had a horse too—Master?—Yes.

3258. And where did you go?—Taking us with him on to the road he left us on the road and he went away home.

3259. Whereabouts did he leave you?—At Nawaka.

3260. He went as afar as Nawaka?—Yes.

3261. And when he went back home from Nawaka did he (Master) still have the gun?—No, he handed it to Rampratap. 10

3262. I suppose he wanted him to take it back to Tunalia?—Mandatt scolded him and said, “You take it back and put it in your sugar cane.”

3263. Well, tell me this: Rampratap lived at Tunalia; why didn't he go there alone?—He was frightened, and being afraid he wasn't going, and Master then scolded me and said, “You go with him.”

3264. Were you frightened too?—Yes.

3265. When did you first find out that a baby had been killed?—On my return to my house.

3266. What day of the week?—On Sunday.

3267. And did you see Manu that day?—When I came near Valji's 20 store I was going towards my house and Master's mother called out to me from their window.

3268. Did Manu speak to you?—I went up to their house. He said, “Don't inform anyone about our shooting incident; if you do I will fix you people up.”

3269. You remember you first spoke to Manu—or rather he first spoke to you—about this gun on the Friday when you were coming home from planting your rice?—Yes.

3270. Now before that time—that is the Friday—I think you said 10 o'clock or 11 o'clock—before that time, did you know that Manu had a 30 gun?—I didn't know before that time that he had a gun.

3271. Did you know there was a gun at Rampratap's place at Tunalia?—No.

3272. And I think you have already told us that when you went back on the Saturday night you had no idea of what was going to happen?—I had no idea.

*XXd.*

Cross-  
examina-  
tion.

*Crown Counsel:* 3273. When did you first understand that shots were to be fired at Chotabhai's store?—When I left home and came to Master's, Master informed me about it then. 40

3274. When you were discussing the thing with Master, as you call him?—Yes.

3275. That was during the afternoon, when you first got there?—No, when I came back from home.

3276. Why did you come back from home?—Master said, “Come back: I will let you know.” And Rampratap remained back with him. That is why. Rampratap had told me that he would accompany me to my house. That is why I went back again.

3277. Well now, you knew that Master had sent for a gun that day?—Yes. 50

3278. When he said, "Come back: I will let you know." what did you think he meant?—He is a master, a school teacher, and Rampratap was there, and he was going to tell me something.

3279. And didn't you think it might be something about this gun?—No.

3280. What time of night did he want you to come?—It was a dark night and I have no idea what time it was.

3281. How long was it before the three of you set out with the gun?—Came back from the house and we were only there for a short time when

10 he scolded us and told us to come.

3282. Told you to come with him?—We were not going, and he pointed the gun, and being afraid we followed behind him.

3283. We can take it the conversation you had with him was quite a short one?—Yes.

3284. How old are you?—About 17 or 18.

3285. Born in July, 1927?—That I don't know.

3286. You agree that you are 17 or 18, you don't know which?—

Yes.

3287. You went to school?—Yes.

20 3288. And you can tell the time, and that sort of thing?—I don't know very well.

3289. I wonder if you can tell the Court what time it was when these shots were fired?—Roughly about 11 o'clock, I think.

3290. Now we have had it in evidence from other people that the shooting was done at 1 o'clock that night?—Well, I don't know the time. I am only giving you an approximate estimation.

3291. It could have been 1 o'clock?—Yes.

3292. You have said that Manu scolded you and threatened you and then off you went, the three of you?—Yes.

30 3293. And I think you have said that you had horses?—Yes.

3294. Did you take the horses as far as the place where you did the shooting?—No, we didn't take the horses there.

3295. How far did you take them?—The horses were tethered up at the master's place.

3296. And so you walked then to the spot where the shooting was done?—Yes.

3297. I don't suppose you wasted very much time on the way?—No. We were scolded, threatened, and we walked fast.

3298. And the shots were fired pretty fast too?—Yes.

40 3299. And coming back I think we could presume that you walked even faster, is that right?—Yes.

3300. Now, going back to your story, you say you accompanied Rampratap when he brought this gun?—Yes.

3301. And you saw the Master?—Yes.

3302. And he said what?—"Are you staying back?" I said, "I am going home."

3303. What did he say then?—He said, "Stay back." I said, "Why, what for?" I said, "I am going home." He said, "Are you coming back?" I said, "Why, what for?" He said, "When you come back

50 I will tell you. Rampratap is here also."

3304. And is that all that he said?—Yes.

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3305. According to the evidence you have given, even if the time of the shooting was, as you say, about 11 o'clock, it must have been very close to 11 when you went to the Master's house that night?—I am only guessing.

3306. And according to other evidence it must have been nearly 1 o'clock at night?—It was night time. I couldn't say as to what time it was.

3307. Anyway you got to his house a very short time before the shooting took place, didn't you?—Yes.

3308. How did you know what time to get there?—You mean when I came from home? 10

3309. How did you know what time to call at the Master's place? —It was night time and I didn't know. I couldn't tell the time, and Master had said "You come" and therefore I went.

3310. Did he tell you when to come?—No.

3311. It might have been next week that you were supposed to have come?—He said, "Come back now: Rampratap is here."

3312. He said, "Come back now"?—Yes. He said "Come back again." I said, "All right."

3313. And he didn't tell you whether to come back next morning or whether to come back that same night?—He had already asked me, "Will 20 you come back now?"

3314. Let us get this clear——

*Rice*: May I mention one thing. The word "abhi"; can't that mean "in a short while"?

*Interpreter*: "In a short while" would be "thora dheri."

*C.C.*: 3315. We can take it that he meant you to come back that night?—Yes.

3316. And no particular time was mentioned?—That's right.

3317. Did you understand that you would be coming very late at night?—No. 30

3318. But you did go there late at night?—After I had had my meal and was talking then, I thought of this and it came to my mind.

3319. At any rate you adhere to your original statement that you got there quite a short time before the shooting took place?—From my house I went to them, and it was after that the shots were fired.

3320. Within half an hour?—No, sooner than that.

3321. Within a quarter of an hour?—I don't know 15 minutes—how long that is.

3322. Less than half an hour?—I don't know what half an hour is. We only sat down for a short time. 40

3323. And you walked a short distance and did the shooting?—Yes. The Master scolded us and threatened us, pointed the gun at us, and that is why we went.

3324. Yes, I know, you are insisting on that. How far were you living from the Master's house?—A short distance away.

3325. Well, you know what a chain is, don't you?—Roughly about half a mile away.

3326. It comes to this. Without knowing what you were going there for, you went out late at night and walked half a mile to the Master's house, is that right?— 50

*Rice*: Did he walk?

- C.C.* : I put walked into his mouth.
3327. Did you walk that distance ?—No, I rode.
3328. You set out half a mile to the Master's house without knowing what you were going there for ?—Yes.
3329. Have you got a brother Rampersad ?—Yes.
3330. You heard Chotabhai Patel giving evidence to the effect that he regarded Rampersad as a friend of Master's. Is that right ?—Yes, that would be so.
3331. Whatever Chotabhai said about it, you recognize the fact that  
10 your brother is a friend of Joseph's ?—Yes, he is.
3332. What about yourself ?—We talk with each other. I wouldn't say that we were on very very good terms.
3333. Not the same as your brother ?—I can't say as to what terms he is on with my brother—very good terms, or how much friendship exists between them. As far as I am concerned, I am only on speaking terms with him. Not very friendly.
3334. What about Madre ; do you know whether he fits in ?—You mean with the Master ?
3335. Yes ?—I have seen him sewing clothes at Master's house.
- 20 3336. You say you went along to see your sister's sore finger that day ?—Yes.
3337. And on the way you encountered Madre and also Master ?—Yes.
3338. And, amongst other things, Master said to you : " Tell Rampratap—or Pratap—to bring my gun " ?—Yes, Master said that.
3339. Well, what he really said was, " Tell Pratap to bring my thing " ; is that right ?—Yes, he said " that thing," and I said, " What thing."
3340. You said, " What thing " ?—Yes.
3341. And he said this word " hathiyar " ?—Yes.
- 30 3342. And that usually, I think, to people in Fiji means " a weapon," doesn't it ?—Yes.
3343. When somebody says " hathiyar " do you think of tools or weapons ?—I would imagine a knife, or something like that.
3344. Then this is the conversation : Master says, " Tell Pratap to bring my thing," and you say, " What thing ? " and he says, " ' Hathiyar,' " and you say, " What hathiyar ? " and he says, " A gun " ?—Yes.
3345. But you knew all along that he wanted a gun, didn't you ?—I had forgotten, and that is why I asked him.
- 40 3346. You had forgotten that conversation in the rice field the day before ?—Yes, it went out of my mind.
3347. Do you know that it is an offence in this country to have a weapon of that sort ?—No, I don't know.
3348. At any rate you know this ; that when an Indian cultivator has got possession of a weapon like that he thinks he is a very important man in the district, doesn't he ?—That I don't know.
3349. You are telling the Court that you didn't know that Manu had a gun until you had this conversation in the rice field ?—Yes, until then I didn't know that he owned a gun.
- 50 3350. You thought of him, I suppose, as a school master ?—Yes.
3351. You thought of him as quite an accomplished man and a respectable one ?—Yes.

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tion.
3352. Didn't it startle you to hear he had possession of a gun?—  
No.
3353. You weren't a bit surprised to hear that?—No.
3354. You forgot about it immediately?—I had forgotten it.
3355. You forgot about it so completely that the next day when he  
asked you to take a message about his "hathiyar" you had to ask him what  
his "hathiyar" was?—Yes.
3356. Now I will say this for you: you did make a statement to the  
police about this as soon as they asked you?—Yes.
3357. And you told them the whole story?—Yes. 10
3358. And you also showed them which way he had gone to do the  
shooting?—Yes.
3359. That was all correct, was it?—Yes.
3360. Did you show the police the place where the horse was tied up?  
—Yes.
3361. What was the horse, or horses, tied there for—can you explain  
that?—We brought the horses and tethered them there, and from there  
we went to Master's house.
3362. When was that?—The same day.
3363. But at what stage in the proceedings?—This is what happened 20  
during the night.
3364. When?—I don't know what time it was.
3365. Was it before you went to the Master's house at all? You came  
from your own house and went to the Master's house?—Yes.
3366. And you had a horse with you?—Yes.
3367. What did you do with the horse then?—I tied it up to a post  
there.
3368. The one you showed the police?—No, not that. It was tied  
up top.
3369. Near Master's house, somewhere?—Where the gate is to enter 30  
Master's compound.
3370. Then the three of you set off with the gun?—Yes, after we were  
threatened and scolded.
3371. You set off with the gun?—Yes. We were terribly frightened.
3372. Did you take any horses with you then?—Yes.
3373. Whose idea was that?—Nobody said anything to me; I got  
on my own horse.
3374. And Rampratap?—He had a horse too. Master had a horse.
3375. You rode along?—I got on the horse to run away home, and  
the Master threatened me; I got frightened and then I followed Master 40  
and Rampratap.
3376. And then what happened?—The Master returned from the  
road and I went away with Rampratap to his house.
3377. Did you ride these horses to the spot you fired the shots from?  
—No.
3378. What became of the horses while you were firing the shots?—  
The horses were tied near the Master's house and the Master had scolded  
us and threatened us and taken us with him.
3379. And then you went and shot at the store?—Master did. We  
were terribly scared—just standing there. 50
3380. Did you go on horseback to shoot at the store?—No.

3381. You left the horses tied at the Master's house, did you?—They were kept tied there. When I arrived there I tied up my horse and went and sat down with the Master.

3382. I want you to explain to the Court this place you showed the police where you tied your horse.—(*Interpreter*: Witness doesn't understand.)

*To Court*: 3383. Put it this way. Before the shooting, did he take his horse from Master's and tether it further down the track?—The place I showed to the police is the place where we tethered our horses when  
10 we had come from Tunalia.

*C.C.*: 3384. And that was during the daytime?—No. It was during the night when we got there from Tunalia to the Master's place. About seven o'clock roughly.

3385. And wasn't that a bit off the track to tether your horses there?—There was grass there and we thought the horses would eat some grass, and we tethered them in the grass.

3386. You were on the way home, weren't you?—Where I had tethered in the first place was on my coming from Tunalia. I returned home from there—took my horse and went home. Then I came back  
20 from the house and tethered my horse near the gate.

3387. When you came from Tunalia with Rampratap and carried the gun you were actually on your way home?—Yes.

3388. And, according to your evidence, you just happened to go to Joseph's place with Rampratap—to the rice mill?—Yes.

3389. Why did you tether your horse such a distance from the rice mill?—That is because it is outside the fence. There is a fence round the compound of the Master's house. I tethered the horse outside the fence.

3390. And then you got off the horse and took the gun to the Master's  
30 house?—Yes.

3391. Are you sure that you didn't in fact tether those horses there because originally you intended to do the shooting straight away and they would be handy for you to get home on afterwards?—No, that was not my intention at all.

3392. I am just going to put it to you, Mandatt, that the part of your evidence that is false is the part in which you say you didn't know what was going to happen that night?—I didn't know what was going to happen.

3393. That Joseph sent you for this gun and when you went for the  
40 gun you knew what he wanted it for?—No, I didn't.

3394. And that you accompanied him there because he persuaded you to, not because you were frightened of him?—No.

3395. Part of the plan being that you and Rampratap would get the gun out of that district before morning?—No. Master scolded us, threatened us, took us down as far as the road, and then scolded us and told us to take the gun away.

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*Chalmers*: 3396. You made a statement to the police?—Yes.

3397. And you told the police everything?—Yes.

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3398. Did you tell the police anything about meeting Manu on the Friday in the field?—They didn't ask me anything about Friday; they asked me about my movements on Saturday.

3399. You never mentioned a word about meeting Manu on Friday and Manu talking to you about going to Tunalia?—There is no mention of Friday in that statement.

3400. So the only reference you made to Manu in connection with the gun was made in your statement Q—the statement on the 6th February to police officer Nanka Singh?—Yes.

3401. "When I reached Nawaka I saw Manu and Madre on the 10 road"; is that what you said to the police?—Yes.

3402. "Manu asked me where I was going": is that correct?—Yes.

3403. "I said I was going to Tunalia"?—Yes.

3404. "He enquired for what purpose. I said to get the gun"?—No.

3405. "I went to Tunalia after that"?—No. There might be a misunderstanding as to how I said it or the way the police took it down. It was late at night when the police took that statement.

3406. You never mentioned anything there in that statement that Manu had asked you to get the gun?—It is the same thing. The previous 20 day, Friday—

3407. I am talking about the time you met Manu and Madre. Manu didn't mention getting the gun. At the time you met him on the road. There was no talk about getting the gun?—He did. He told me to.

3408. What did he tell you, then, at the time you met Madre?—Madre was sitting down in the shade of the tree and Master was talking to him.

3409. Madre was sitting under the mango tree with Master?—No, Master was standing up.

3410. Madre was sitting down under the mango tree?—Yes. 30

3411. That is when you came up to them?—Yes.

3412. Let us have the first conversation. What took place?—Master said, "Where are you going to?" I said, "I am going to see my sister at Tunalia." He said, "Tell Rampratap to give me my thing." I said, "What thing?" He said, "Hathiyar." I said, "What sort of hathiyar?" He said, "Gun."

3413. And this conversation took place under the mango tree?—Yes.

3414. Why did you a little while ago to my learned friend Mr. Rice say you met them coming along the road? They were coming towards you and you were going towards them. Just a few minutes ago you said 40 that?—Yes, they did come from the opposite direction, and while Master was talking to me Madre went and sat under the tree.

3415. Even in your statement you say you met them coming along the road?—Yes, we met near the tree.

3416. So Madre went and sat down under the tree before you reached them?—No. When I reached them quite close and Master began a conversation with me, Madre turned and sat down under a tree.

3417. I am just going to take you back again to this Friday where you say you had this conversation with Manu. Rampratap is related to you in some way, is he not?—Yes. 50

3418. Now he said Rampratap was looking after this gun for him, didn't he?—Yes. What he said was, "I have given it to him and he is keeping it."

3419. Weren't you surprised to find that some relation of yours was keeping a gun for him?—It may be the Master had given it to him and that he was keeping it for him.

3420. Are you not surprised that some relation of yours at Tunalia was looking after a gun for him?—Never mind if he is my relation; it is no surprise to me.

3421. And you didn't tell the police at that time that Manu had told you on the Friday that Rampratap was keeping a gun for him?—I didn't mention anything that happened on the Friday. They asked me about  
10 my movements from Saturday.

3422. Did you tell the police at any time that Manu had told you that Rampratap was looking after a gun for him?—I have informed the police that Master had told me to get a gun for him from Rampratap and that I told Rampratap that Master wanted the gun.

3423. But you didn't tell the police anything about this until the 6th, and you knew that this shooting had taken place on the 4th, Sunday?—The Saturday night, late at night.

3424. And you didn't tell the police this?—Well, I wasn't there at the police station at all until then.

20 3425. But you were there, according to yourself, on the Sunday when all the police were there. No. When I returned home the police were not there at that time.

3426. Did you go up to Chotabhai's place or anywhere round about there on the Sunday?—I went along that road; I didn't see anybody there.

3427. What time did you go along that road?—In the evening.

3428. You were never there at any time in the morning?—No.

3429. And no police were about there?—There were Fijians going about here and there.

30 3430. Constables?—Plain clothes men. They had singlets and shorts on. I couldn't say whether they were police or not.

3431. You say after meeting Manu and Madre you went to Tunalia?—Yes.

3432. That was on the Saturday?—Yes.

3433. And what time was it about when you reached Baksh's house?—Three or four o'clock I should say.

3434. And were Sadilal and your sister there?—My sister was there, Pratap was there and Pratap's brother was there.

40 3435. Well you know Baksh said that they had gone to the hospital that day and they were not there?—Yes.

3436. And they were not there when you were there. Now you say you met your sister and Sadilal there?—No, Sadilal was not there.

3437. Well, you met your sister?—Yes.

3438. Did you go to their house?—Yes—that is my sister's house.

3439. Did you go there?—Yes.

3440. How long did you stay there?—I sat down where I had sat down in the first place and my sister also came and sat down there, and I remained there.

50 3441. Did you go and take your horse and go away again?—Yes. and then I went to Pratap's house on my horse.

3442. What Pratap?—The man in the dock.

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3443. After leaving the horse at Baksh's place, you went to your sister's place, and then you came back and got your horse and went to Rampratap's; is that right?—No, I came back with the horse and went back to the compound and, together with Rampratap, we left the compound.

3444. Where did you leave from—Baksh's place?—I walked to my sister's.

3445. And did you come back again alone to get your horse, or did you come back with Rampratap?—I came back alone.

3446. And did you get your horse?—Yes.

3447. And then where did you go to?—Taking the horse, I went to 10 Rampratap's.

3448. And you didn't come back again to Baksh's or your sister's place?—The houses are all clustered close by.

3449. Where did you meet Rampratap?—At his house.

3450. How far from your sister's house is his place?—About two chains away.

3451. And did he get his horse then?—Yes, his horse was quite close.

3452. And then he went away and got the gun?—No, he walked to get the gun.

3453. But this gun was found a considerable distance from Rampratap's 20 house?—No, not very far away.

3454. Did you see where he went to get the gun?—Yes.

3455. Where?—Inside the cane field.

3456. And was it in a tin box like the one that is in Court here?—Yes.

3457. And did he take the gun out of the box?—Yes.

3458. What did he do with the gun?—Took the gun in his hand and got on his horse, and I got on mine.

3459. And was the gun loaded?—No.

3460. Who loaded the gun?—It was as it was brought from the cane field. I don't know whether it was loaded or not. 30

3461. Did you see anybody load it?—No.

3462. Are you sure of that?—Yes.

3463. Well, perhaps I can remind you if you said this to the police, in answer to a specific question: "The bullet was loaded in the gun and Rampratap had loaded it"?—The police told me to say that. I didn't see it with my own eyes. The police said, "You say that Rampratap loaded the gun." I didn't really see him loading it.

1 p.m. Adjourned.

2.15 p.m. Resumed.

3464. I was asking you about the gun and who loaded it. When you 40 gave this message to Rampratap about the gun, who went to get the gun?—Pratap.

3465. You didn't go?—I didn't go to the spot where he brought the gun from, but I accompanied him back.

3466. Did you remain at your sister's house?—Yes.

3467. Did you see where he went to get the gun?—It was evening time and I didn't see it very clearly. When he came back and placed it there I saw it.

3468. So all you know is he left to go away and get the gun and came back later with the gun?—Is that the right interpretation?—Yes, that 50 is right.

3469. Did you have your meal at your sister's house ?—Yes.
3470. The usual meal ?—Yes.
3471. And if Rampratap says this in a statement to the police : “ After the evening meal I and Mandatt went to the hill and brought the gun,” would he be telling the truth there ?—I didn't accompany him to fetch the gun. He brought the gun and then I accompanied him back home.
3472. So that is not true what Rampratap has said ?—He is lying if he says I went with him to fetch the gun, because I didn't go with him.
- 10 3473. When you returned who went and hid the gun ?—Pratap and I both together were at the place where he placed the gun.
3474. And you say it was evening when you had your meal. What time did you leave Tunalia then ?—Towards dusk. It was just beginning to get dark.
3475. It wasn't dark ?—No.
3476. And I suppose when you left Tunalia you both left on horse-back ?—Yes.
3477. And there would be a lot of people in Rampratap's settlement at that time of the evening ?—You mean in the house.
3478. I put it to you that in that settlement where your sister lives  
20 everybody would be moving about at that time ?—No.
3479. Nobody moving about ?—It was just getting dark then.
3480. Isn't it just about dark when people are having baths and getting ready for meals and all that ?—Yes.
3481. And yet you rode off with a gun and nobody saw you riding off with a gun—the two of you ?—No one saw us.
3472. Isn't it a fact that there are a lot of houses in that neighbourhood ?—Yes, there are several houses.
3483. And yet no one saw you riding. As far as you know, nobody saw you going off with this gun ?—I didn't see anyone watching us or  
30 seeing us come away. Perhaps someone may have seen us, but I didn't see anybody.
3484. You know the police haven't called anybody ? There has been no evidence called in this Court to say you were seen going off with the gun ?—That is right.
3485. I put it to you that you left very late that night from Tunalia with that gun, when everybody was asleep ?—No.
3486. And on your way riding along with this gun nobody saw you ?—Might have met somebody but I didn't know or recognize the persons.
3487. Who was carrying the gun ?—Pratap.
- 40 3488. How was he carrying it ?—In his hand.
3489. What time was it when you reached Manu's house ?—It was a dark night and I don't know what time it was.
3430. No moon ?—No, not at that time.
3491. Well I think most of the Crown witnesses said that it was a moonlight night. I think Inspector Spencer said that towards 4 o'clock in the morning the moon was just setting ?—What I mean is the moon hadn't come out at the time. It wasn't until late. When we left Tunalia there was no moon.
3492. Let me see. What time was it when you reached Manu's ?  
50 Can you tell us ?—It was a dark night. I have no idea what the time was. Didn't have any watch or clock with us. And then I can't read a clock.

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3493. You surely can give us an idea whether it was late at night, or early in the evening, or when?—Just shortly after dark.

3494. So that you had ridden along all the way from Tunalia and you reached Manu's house only after dark?—Yes, it was night time when we came to Master's house.

3495. And when you reached Master's house did you go straight to the house?—Coming to that locality where I tied the horse up—

3496. There is one gate up near Lalji's store and there is another gate down near the school, is there not? Was it the top gate or the lower gate?—The middle, in between. 10

3497. That is right opposite the rice mill?—Yes.

3498. You tied up your two horses there?—Yes.

3499. And where was Manu's horse?—Somewhere inside the paddock; I don't know where he had it tied up.

3500. But his horse was tied up?—I didn't see his horse at the time.

3501. Then you went to Manu's house, and how long did you stay there?—Rampratap and I went; Master said "Come inside."

3502. But how long did you stay there?—I was still standing outside and I said "Master, look, I am going home." 20

3503. You can't give us any idea when you went home?—Yes.

3504. Your object, of course, in going home was to tell your people about your sister?—Yes. I told them about my sister.

3505. It would be pretty late at night, wouldn't it, when you reached your home?—No idea. It was a dark night. It wasn't very late.

3506. You got home and you told your people. What else did you do?—Master had called me back, so I got on the horse and came back.

3507. Did you have food at your house?—Yes.

3508. So that in fact you had your tea at your sister's place and you had another meal when you got home that evening?—Yes. 30

3509. I want to know whom did you meet when you got home?—I went into the house; the lamp was alight; I took the lamp and went into the kitchen and took something out to eat. I came back from there and saw my brother and my uncle sitting down, so I sat down with them. I told them I had gone and seen my sister. I said her finger was dressed and the day after to-morrow she would be operated on.

3510. I suppose you told them about this gun being brought?—No.

3511. You didn't think of telling them that?—There was no necessity for me to tell them that. 40

3512. And you didn't think of telling them you had to go back again in connection with that gun?—No.

3513. It didn't occur to you to tell your people that?—Well, the Master had sent for the gun; it was nothing to do with me.

3514. It didn't occur to you to tell your people that you had to go out late at night because of this business about the gun?—There was no necessity for me to say that to my people. The Master had sent for the gun.

3515. I put it to you that you went there to get your brother Rampersad to come back with you and do the shooting?—Yes, they were sitting 50 outside—my uncle and my brother Rampersad.

3516. I put it to you that you went there specially to bring your brother over—Rampersad?—No.

3517. And that you did bring your brother Rampersad over?—No.

3518. That you didn't go half a mile in the night-time merely to tell your people about your sister when you knew that later on you would be going home?—I went and told them.

3519. Do you wish the Court to believe that you went half a mile that night merely to tell your people what was wrong with your sister, and then came all the way back to Manu's place?—Yes, I went and told my people. That could be asked of my uncle and my brother—whether I did or not.

10 3520. You say you went back alone and you didn't take Rampersad back with you. When you went back where did you tie your horse up?—At the gate.

3521. At the top gate or the bottom gate?—Top gate.

3522. That is right up near Lalji's store?—Yes.

3523. And at that time where was the other horse?—You mean Pratap's.

3524. Yes?—In the hollow.

3525. Whereabouts in the hollow. Can you tell us in relation to the compound?—Still at the same place where we had tethered it in the  
20 first place.

3526. It was right up near the main government road was it that you tied your horse?—Yes.

3527. That is the place where the lorries come in to bring the rice to be milled, isn't it?—Yes, on the side of it.

3528. Now you left your horses tied there and you decided, according to you, that you and Emmanuel would go on this shooting expedition?—No. I was taken at the point of the gun. Compelled and forced.

3529. Let us have it this way. You were compelled and forced at the point of a gun to go with Manu and do this shooting?—Yes.

30 3530. I suppose he was prodding you in the back all the time with the gun, was he?—No, that wasn't the way. He pointed the gun and I became very frightened and I followed him behind.

3531. He didn't make you go ahead of him?—No.

3532. And what happened to the horses—were they still there when you went off in connection with the shooting?—The horses were there.

3533. Your horse up at the gate?—Yes.

3534. Did you ever tell the police at any time about having, after returning from Tunalia, gone home before the shooting?—No.

3535. Why not?—Because I had forgotten.

40 3536. Now did you ever tell the police that when you got to the mango tree Manu left you there and walked away some distance—I think it is shown on the plan—35 yards—and fired the gun?—Yes, I said that.

3537. You did say that, in your statement to the police?—Yes.

3538. I will give you just what is recorded here?—I didn't say it in words, but I pointed out the place he left us and went on.

50 3539. I am talking about your statement, before you went to point out any place. Did you say this: "Myself, Manu and Rampratap, three of us, went to Patel's store. When we three arrived under the mango tree Manu stood and started firing the gun at Chotabhai Patel's store."?—No. That wasn't so. He threatened us with the gun, and because he pointed the gun at us we went with him.

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3540. I am asking you did you say that to the police, I am not asking you about the threat. I will repeat the end: "When we three arrived under the mango tree Manu stood and started firing the gun at Chotabhai Patel's store." ?—I don't remember.

3541. And when you were told later that cartridges had been found some distance from the mango tree then you turned round, I put it to you, and said, "No, Manu fired the shots 35 yards from the mango tree" ?—I pointed out the place where we were standing.

3542. Well now, you and Rampratap had been together, had you not, at Tunalia, when the police were out there ?—No. 10

3543. Were you not brought home together in the same van ?—Yes, that day I was at Tunalia.

3544. And you were with Rampratap ?—No.

3545. You were brought home together in the same van ?—They took me from near the store.

3546. You came home from Tunalia with Rampratap, did you not, in the police van ?—Yes, I was there, yes.

3547. And when you returned after the gun was found you were both kept in the station together, were you not ?—Yes.

3548. And later on statements were taken from both of you ?—When 20 they brought me in the evening they didn't keep me together with Rampratap.

3549. They didn't ?—No.

3550. Where were you kept then ?—They had us seated separately; myself somewhere and Rampratap in another place.

3551. Returning after the shooting business, what did you do; did you return to Manu's house or did you ride your horses ?—I was on horseback and I wanted to run away home, and the Master got on to me and said, "Come with me."

3552. I just want to ask your movements. After the shooting, did 30 you go to Manu's house or did you get on your horses ?—Didn't go back to Manu's house.

3553. You went straight and got on your horses ?—Yes.

3554. And then started to ride away ?—Manu also came on horseback.

3555. So then Manu, after this shooting, went and got his horse and saddled his horse; is that what we are to understand ?—I don't know about that. His horse was tied behind the house; he rode the horse and came over to us.

3556. Then the three of you got on horseback, is that right ?—Yes.

3557. And who had the gun ?—At that time the Master had the gun. 40

3558. And you three rode away with the gun in the possession of the Master ?—No, he scolded me, otherwise I would have run away home.

3559. I suppose your horse hasn't got very fast feet ?—My horse doesn't run very fast.

3560. And while he was getting his horse there was no time for you to run away ?—The horse was tied by rope and well secured; how could I have it undone before he got back ?

3561. When you were at his house originally you never saw any sign of his horse, did you ?—No, I didn't see it.

3562. You didn't even see where he got his horse ?—He came from the 50 side of the house.

3563. Did you ever tell the police anything about Manu getting a horse and riding away with you?—Yes, this much I didn't tell the police—that the Master had taken us as far as the road.

3564. So you are really wanting to secure the blame properly on the Master, aren't you?—No. This is the truth. I am not blaming him for lying. I have sworn to tell the truth.

3565. When you made your statement to the police you implicated him enough; why didn't you go the whole hog then?—I had never been to a police station before, and they questioned me so fast that in places  
10 I forgot answers and I couldn't reply to them so quickly.

3566. I will take you over what you said to the police at that time: “When we three arrived under the mango tree Manu stood and started firing the gun at Chotabhai Patel's store. After firing the bullets we returned to Manu's house.” Did you say that to the police?—I said “near his house.”

3567. “After coming there Manu fired the gun at Lalji's store”?—Yes, when a person was seen round about there, in the vicinity of Lalji's store. That is why he fired the gun in that direction.

3568. Had you never told that to the police? About seeing a person  
20 on the road?—I had told them. They must have taken it down in writing.

3569. Then you go on to say: “After this Rampratap took the gun from Manu”?—No, not there.

3570. Did you say that to the police—“After this Rampratap took the gun from Manu. I and Rampratap then returned to Tunalia on horseback and Rampratap placed the gun in the sugar cane.” Did you say that?—I don't recollect that.

3571. I am just going to tell you what the other accused says as to what happened about the shooting, and see if you agree. This is what Rampratap has said to the police. I am referring to when you got back  
30 to Manu's place: “Manu was standing outside his house. I gave him the gun. Manu said go and sit in the house. We were talking until late in the night, then Manu said let us go and fire bullets at Chotabhai's store. The three of us, Manu, Mandatt and I, went towards Chotabhai's store.” Now Rampratap makes no mention of your ever going away?—I don't know why Rampratap didn't.

3572. Then, later on, after the shooting: “After the shots were fired the three of us returned towards Manu's house. Manu fired three or four bullets at Lalji's store. Manu gave me the gun. I and Mandatt took the gun and arrived at Tunalia on horseback. Mandatt took the gun from  
40 me and placed it in the sugar cane.” Is that correct?—No, the Master took both of us to the main road, and having got as far as the road he left us and returned.

3573. That is way down Nandi road is it?—No.

3574. What road?—The main road that is near his house.

3575. Only a matter of a few chains?—No, the road that is beside his house.

3576. So that he got his horse for the sake of taking you up the road in front of Lalji's store?—He brought us up the Nawaka road.

3577. How far?—Further this side of Nawaka village.

50 3578. That is a good few miles, isn't it?—I don't know whether it is two miles or three miles.

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3579. And when you got home who went and hid the gun?—Pratap and I both were together. Pratap then placed the gun in the tin case and took it in the canefield and hid it there.

3580. According to Rampratap you did that: “Mandatt took the gun from me and placed it in the sugar cane.” So who is telling the truth?—Pratap had the gun. I don’t know anything about this. He wrapped it all up in a cloth and he placed it inside the tin box and then he took it to the canefield and hid it.

3581. If Rampratap says you took the gun from him and took it and placed it in the cane, that would not be correct?—That would not be 10 correct. Pratap and I were together.

3582. You left Manu at Nawaka?—Yes.

3583. You didn’t think of returning home; you went all the way to Tunalia?—Then I was single; alone from there.

3584. There are a lot of roads to go without coming back the same way?—I had to go with Pratap.

3585. Why?—I was alone and I became single handed, and Pratap compelled me to go with him.

3586. I suppose he threatened you with the gun unless you went back with him?—No. 20

3587. Then why did you say you had to go back with him?—I was alone and so was Pratap, and Pratap suggested to go with him and for company’s sake I went on.

3588. And you stayed the night there?—Yes.

3589. And you left the next morning to come home?—Yes.

3590. And did you return by the road past Lalji’s store?—Yes.

3591. And what time did you pass Lalji’s store?—The following day; it was in the evening. I forget now as to what time it was.

3592. What time did you leave Tunalia then?—We were sleeping and got up and went and had a bath and came back and had a meal. 30 There was quite a long time spent there before I left.

3593. I will tell you what Rampratap says happened in the morning: “Mandatt, after having his tea in the morning, came to Mulomulo?”—No. I had a bath with him and then I had my meal.

3594. I am wanting to know how you filled in the morning from your breakfast until late afternoon. How is it you took so long to get home?—Well, in the morning we were sleeping for quite a long time, and Pratap and I both got up and went down to the well and brushed our teeth, and had a bath there then came back from the well and had our meal.

3595. What time would it be when you had your meal?—This was 40 breakfast we had at that late hour in the morning. The sun was round about here (indicates).

3596. And then you started for home?—Pratap suggested we go on to the racecourse.

3597. I put it to you that you and Rampratap and your brother Rampersad, having shot up that store the night before, were anxious to keep away?—No:

3598. And Rampersad, your brother, and your family had had a great deal of trouble with Narain and Chotabhai over trespassing stock?—No. We may have been on bad terms with Narain over cattle 50 trespassing, but we have nothing against Chotabhai.

3599. But Narain and Chotabhai are very good friends and Narain leases the store to Chotabhai, doesn't he?—That I don't know.

3600. And as a matter of fact about a week before this didn't your brother Rampersad, in the presence of a number of people there, because Narain had abused him in connection with his split lip, threatened to shoot up Narain's buildings?—That is a lie.

10 3601. Anyway, there had been a long friction, hadn't there, over this trespassing stock, with Rampersad?—Whenever his cattle comes on our land we take it to the pound, and when our cattle gets on his he takes it to the pound.

3602. And this has been going on for some time?—Yes.

3603. And this impounding of each other's cattle doesn't cause any ill feeling?—Why not? Yes.

3604. You say you are just on casual terms with Manu?—I wouldn't say we are very good friends and I wouldn't say we are bad friends.

3605. And you have no business dealings or anything like that between you, have you?—Yes.

3606. What business?—We take our rice to the mill; that is all.

20 3607. I want to ask you why, seeing that you are not such a great friend of Manu's, why you should bother going all the way to Tunalia and giving this message, and coming all that way with a gun, and going all the way back again that night with the gun?—It just so happened that I was going to Tunalia, and he said, "Will you give this message for me." And I said, "All right."

3608. Was Rampratap a frequent visitor to Mulomulo?—Occasionally he would come.

3609. Have you ever seen him talking or having anything to do with Manu?—No.

3610. Tunalia is quite a long way away, isn't it?—Yes, it is.

30 3611. Can you give any suggestion why Manu should ask a person that, according to you, you have never even seen him conversing with, to look after his gun way down in Tunalia?—It was only that the Master informed me that he had given the gun to Rampratap. It was the first occasion I knew that he had given the gun.

3612. Can you say why, in so far as this relationship is concerned, he should ask this man to keep a gun all that distance away from him?—That I don't know.

40 3613. Why didn't you say to him, "If you want your gun go and ask for the gun yourself. Go and get your own gun"?—He just gave me the message—"Tell him that." So I said, "All right, I will tell him that." He said, "He is your brother-in-law's brother; you can tell him."

3614. Why didn't you say, "If you want the gun, go and get it"?—I didn't say that.

3615. There had been a good deal of shooting up round your place—a number of people being prosecuted in connection with using arms, in your district?—Yes.

3616. And you mean to say you didn't know that possession of arms was a serious matter?—Well, I didn't know what sort of gun Master had with him—whether he was keeping it unlawfully or not.

50 3617. Didn't you know that mucking about with a gun was a serious thing?—That I don't know.

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3618. Returning home after this shooting business, did you meet anybody?—You mean when Pratap and I were going back?

3619. Yes?—Yes, two or three boys met us on the road.

3620. Who were the boys?—I didn't know them.

3621. Didn't they have a talk with you?—They said "Who are you?" I said, "It is I." One of them said, "What is your name?" I said, "It is Mandatt."

3622. And how far from Mulomulo did you meet them?—On the road.

3623. How far?—I couldn't say. They met us on the road. I 10 couldn't say where.

3624. You don't know the roads, I suppose, about that locality?—I don't know the road. Pratap knew. He was used to that road.

3625. Do you know which way you went there?—Nawaka. Rampratap turned on a track and I don't know what track it was.

3626. Before reaching Nawaka?—We had left Nawaka. Passed Nawaka.

3627. Did you say you were going home?—No, Pratap said, "I am going home."

3628. And you never said anything?—All I said was, "My name is 20 Mandatt."

3629. When did you first learn that Chotabhai's child had been killed?—When I had come back home.

3630. That was on the Sunday?—Yes, in the evening.

3631. And why didn't you then tell the police all that had happened?—I didn't know where the police were living or what I was going to tell them or anything. When a Fijian came and asked me I told him all the truth.

3632. When did you tell the Fijian all the truth?—I had heard that one baby was killed and another boy was injured on the hand, and I told 30 him the truth.

3633. When did you tell the truth?—Tuesday morning or Monday morning.

3634. What police did you tell?—I was planting rice seed and a Fijian constable came to me, and he enquired about it. He said, "Do you know anything about this affair?" And I said, "Yes, I do."

3635. And you told him all about it?—He said, "Come with me to the store and tell me over there," and I went to the store and told him.

3636. And of course you don't know the Fijian constable?—No.

3637. And I suppose you wouldn't know him if you saw him again? 40 —No, I wouldn't be able to recognize him.

3638. And I think in actual fact it wasn't until you made your statement to Nanka Singh that you mentioned anything at all about Manu?—Yes, I told the truth. Even before that I had informed them of the truth and they told me, "When we return we will take it down in writing."

3639. And I suppose after the shooting you were so terrified that you were afraid to tell the police. Is that what it is?—I didn't go anywhere and I didn't know anything as to what to say. When they asked me I told them the truth.

3640. I suppose you knew the police were up there every day—a big 50 body of police officers?—The day my brother was taken away, that is the

day I came to know the police were there; then when I was accosted I told them the truth. Monday or Tuesday; it wasn't very long afterwards.

3641. Did it ever occur to you to ask Rampratap why he was so good as to look after this gun for Manu?—I did. I asked him and Pratap said, "Manu has given me the gun to keep and I am keeping it for him."

3642. Did it ever occur to you to ask him why he should be so obliging to Manu?—No, that I didn't ask.

3643. Now quite near Lalji's store there is a track that goes down to your settlement?—You mean straight from Lalji's?

10 3644. It starts from near Lalji's store and goes a roundabout way?  
—Yes.

3645. I put it to you that after the shooting you came up that track, ran your horse past the rice mill and got across that track down to your place?—No. At that time there was rice growing there and horses could not go across there.

*XXd.*

*Sharma*: 3646. Rampratap's brother, Sadilal, is married to your sister?—That's right.

20 3647. Now you say that when you got to Joseph's house you went away to your own place and then came back?—No. Rampratap and I both went to Master's house. Master said, "Come in." I said, "No, I want to go home."

3648. After you and Rampratap had got to Master's house you left Rampratap there, according to your story, and went to your own house, didn't you?—Yes.

3649. And then you came back again to Master's house?—No.

3650. And then you say Master threatened you and asked you to accompany him?—Yes.

3651. Now whom did he threaten?—Both me and Rampratap.

30 3652. Did Rampratap ever threaten you from the time you got to Master's place and the time you returned to Rampratap's place?—No, Pratap did not threaten me at all.

3653. Now you say you were compelled to accompany Master to the locality from where he fired the shots?—Yes.

3654. Who fired the shots?—He went further on, the Master did, and he fired the gun from there.

3655. Now immediately before moving off to fire the shots, did Master say anything?—Yes.

40 3656. What did he say?—At the house he said, "Chotabhai Patel has quite a good business here and I want to frighten him and get him out of the district."

3657. I am talking of the time immediately before the shots were fired. That is the conversation in the locality from which the shots were fired?—He said, "Stand here." Pratap before that had said to the Master, "Don't fire the gun." Master then threatened us and pointed the gun at us and said, "Don't talk like that."

50 3658. Can you remember what Pratap said?—This is what he said: "Don't fire the gun at Chotabhai's store. Somebody might be injured. It is not nice to fire a gun." And then the Master said, "If you say this—" and he swung round on us. Pratap was terrified and said to me, "Don't go any further with him."

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3659. And you were told to remain there by the Master, weren't you?—No. He pointed the gun at us and we were terribly scared and we wouldn't go any further. We were standing there, and when he fired the gun we became terrified.

3660. What was Rampratap doing?—He got terribly scared, too.

3661. Some mention has been made about the loading of this gun. Did you see anyone loading this gun?—I didn't see anybody loading that gun with my own eyes.

3662. When you took this message from Master to Pratap about this gun, did you know what this gun would be used for?—No. 10

3663. When you first saw the gun at Pratap's did you know what the gun would be used for?—No.

3664. When you got to Master's house with the gun did you know what the gun would be used for?—No.

3665. When did you first discover what the gun was intended for?—It was when I had come back from my house and sat down with Rampratap and Manu. After I said, "I am not able to advise you in this matter." It was then.

3666. You said you and Rampratap both went to conceal this gun?—Both of us were together at the place where the gun was placed. 20

3667. Why was the gun concealed?—Master scolded us, threatened us. He said, "You both take the gun and hide it over there. If you leave it here somebody might find it." Then to make sure he took us right on to the road to see that we went.

*Re-Xn.*

Nil.

*Rice* : If Your Honour pleases, that is the case for this accused.

*Sharma* : I don't propose to call the third accused, nor any witness on his behalf.

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Monday, 10th September, 1945.

SEVENTH DAY.

2.15 p.m.

No. 35.

#### CHARGE TO ASSESSORS.

*The Court* : Gentlemen assessors, the accused in this case are charged, as you know, with the murder of this small child.

First of all, I want to begin with what I have to say on the subject of the law. You have heard certain statements or submissions from learned Counsel as to what the law is which is to be applied in this case, but the question of the law is a matter for the presiding Judge and you take the law from him ; personally, I rather deprecate more than a passing reference to the law by learned Counsel, whether for the Crown or for the defence, because if they give the law correctly in the view of the Judge they are merely saying what he himself is obliged to say in the course of his summing up. If, on the other hand, in his view they do not give the law correctly, then confusion is likely to occur in the minds of the assessors or the jury, as the case may be. 40

However, as I say, the law you take from me, and my view of the law in this case is approximately that which has been suggested to you by Mr. Rice, only I am going to put it in a different way. If any of these persons are to be convicted of murder you must be satisfied beyond a reasonable doubt, firstly, that they were parties to this unlawful killing—undoubtedly the killing was unlawful—and secondly, you must also be satisfied that when that shooting took place the parties responsible for it had the intention to cause death or grievous bodily harm to the inmates of that house. You must be satisfied of those two things. Undoubtedly

10 the persons, whoever they may have been, who fired into that house were entirely reckless as to the consequences—indifferent as to whether they caused loss of life or not. But that, in my view, is not sufficient to convict them of murder. You must go further than that and be satisfied that they had formed an intention to kill or cause grievous bodily harm to the inhabitants of the house. And, with regard to the intention, that is obviously not a matter of positive proof. You cannot open a man's head and look inside to see what his intention is; all you can do is to assume what his intention is from what he does. A man is presumed to intend the reasonable and probable consequences of his acts. For instance, if at the

20 foot of this hill there were a thousand people crowded together and somebody from the top fired a number of rounds into them, you would presume that he intended to kill some of them, because that was the reasonable and probable consequences of what he did—fired a rifle into a large, closely packed crowd. And in this case, in considering the intention of the accused, you have to look and see what they did, and you may well doubt whether the intention to cause death or bodily harm is proved, because, although there were a number of persons asleep—eight, I think, was the number mentioned—in the store and adjoining buildings, it was the middle of the night and they might naturally be expected to be lying down and

30 therefore they would not present much of a target to anybody firing from a distance of 100 or 150 yards—as you might say, taking a pot shot at the store.

That is a matter for you to consider. The evidence shows that that store was up on a hill and that the firing took place from down below and that the store is raised on stilts 3 feet from the ground, and why the bullet struck the child was, as it seems from police evidence, that it had come in through the floor; none of the others appear to have gone anywhere near where the persons were sleeping. In considering this question of intention, you have this evidence which may help you to come to an opinion as to

40 whether or not these persons really intended to cause death or grievous bodily harm. Mandatt, in his only statement to the police, said that Manu said, "Let us now go and frighten Chotabhai with a gun"; and Rampratap, in his statement, when he confessed his share in the affair, said that Manu said, "Let us go and fire bullets at Chotabhai's store." Those two statements (you have heard this said more than once) are evidence only against the persons who made them; where they implicate the others, in particular Manu, they are not evidence against them because they were made, as Mr. Chalmers has said, in the absence of the persons concerned and therefore they are of no value.

50 Mandatt says in his evidence in Court, which you are entitled to take into account as regards all three of the accused, subject to the warning that

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I will give you later : “ Manu said that Chotabhai was doing good business. He wanted to frighten him and chase him away and put up a store in his place.”

So that in all these three statements there is a reference to an intention to frighten Chotabhai, no mention of an intention to do anything worse ; and I think perhaps you should take that into account when you are considering that second question of intention.

Now, in this case, as you very often do, you have three accused all charged with the same offence, an offence in which obviously one partner must have taken a principal part—that is to say, fired the rifle while the other two were standing by. And therefore, naturally, you would like to know in what circumstances the ones who did not fire the rifle should be convicted. In my view it is this you have to consider : did these three persons come to an agreement to go to Chotabhai’s store and fire shots into it ? If they did and they went forth, as the evidence shows, to the mango trees, and one took the gun and the others stood by while he shot, then all those three are equally responsible because there was a common agreement to do something unlawful, and in those circumstances who fired the gun is immaterial. A common example of that—what you might call joint responsibility—is the case of two men who go out to break into a house : one stands in the road to keep watch and the other breaks into the house and steals. Those two persons are both guilty of breaking into the house although the man who stood on watch in the road may not have been within 100 yards of the house. It is a joint enterprise and they are both equally responsible.

Now I think that is probably enough about the law—as to what should be proved on this subject of joint responsibility. Let us come now to the case of the individual accused. We will take Manu first.

The evidence against Manu consists of an alleged motive, in the first place, and his subsequent conduct, in the second place—conduct which it is alleged or suggested is inconsistent with his being an innocent person but, on the contrary, points to his being a guilty person. And then, to some extent, that evidence is supplemented by the evidence which Mandatt, the second accused, has given in the witness box.

Now, on the subject of motive, the allegation is that Manu was at enmity with Chotabhai and Valji, the keeper of Lalji’s store. I am going to read you extracts from the evidence on that subject, because it is of considerable importance, and you will have to make up your minds whether you are satisfied that these people were at enmity or whether, as Manu says, they were, if not on warm terms, at any rate on good terms.

This is Chotabhai’s account of the enmity. He said, “ I had a jack which Manu borrowed.” (Manu, mind you, not his father. Manu says on the subject that it was all to do with his father, not with him.) “ It was broken when in his possession : the owner came and asked me for it : I told him Manu had it : the owner came back and said the jack was broken : I told him to collect the cost from Manu but the latter refused to pay : I had to pay £5. Manu was then living in a hut belonging to me free of rent : we were on good terms up till then : I turned him out of the hut : this was 5 or 6 months before the shooting. Manu had occupied the hut for over a year ; he went away to his parents’ house opposite Lalji’s store near his father’s rice mill. The road runs close to my store. Manu’s younger brother began galloping the horse along the road : I was afraid for my small

children : I went to Manu's father and complained. A week later the horse was again galloped : my children were playing outside : I saw the horse coming again galloping and when it came close I raised my stick : the horse shied and the rider was thrown off. That evening the whole of Manu's family came to the store and abused me." (Then he mentions a man Lal Mohamed whom we haven't seen.) "Lal Mohamed came and asked them to depart and they did so. They have never come to my store since that day. Previously they used to buy there. This incident was one or two months before the shooting."

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10 And Yusuf has something to say on this subject : he was the man who was employed in Chotabhai's store. He says : "Manu and Chotabhai used to be on good terms : then they quarrelled about a jack : there may have been other quarrels. The quarrel about the jack was one or two months before the shooting. Manu was then in Chotabhai's hut : after the quarrel he went to live with his parents. Until the quarrel Manu's family dealt at the store, but not afterwards." And in cross-examination : "I was present at the quarrel about the jack : Chotabhai demanded £5 : Manu said he would ask his father : I never heard that Manu had offered £2-10-0."

20 That is the evidence of Chotabhai, supported to some extent by Yusuf. Now Manu himself says : "I know nothing about the jack : I believe my father borrowed it from Chotabhai : it was broken but repaired and given back : repaired at blacksmith in Nandi : the owner refused to take the jack back : Chotabhai never spoke to me about the jack." So, in effect, he disclaims having any particular knowledge of this jack and says that his father borrowed it and that Chotabhai never spoke to him about it. And then he goes on with regard to the horseriding : "I didn't see the horseriding incident : I know my brother was injured by falling off. My family went and quarrelled with Chotabhai : I wasn't there, but I drove my  
30 family home. My brother was stopped from riding. This was three or four months before the shooting. Since then I have had no trouble with Chotabhai : I have dealt at his store when I did not make my purchases in Nandi where things are cheaper."

So there you have a very distinct conflict of evidence, with Chotabhai, on the one hand, saying that his quarrel was with Manu and with the whole family and that they had never been to his store since the quarrel, and the accused Manu, on the other hand, saying that as far as the jack was concerned it concerned his father, and that about the horse-riding incident he knows very little except that he did bring them back from Chotabhai's  
40 store.

And then there is the evidence of Manu's mother, Mrs. Joseph, who said : "I heard my husband and Chotabhai talking about a jack ; I know no more." Do you think that is likely to be true, or is it the fact that she knows the whole history and prefers to say nothing about it ? And then she says, about the boy falling off the horse : "I went over to Chotabhai's store. Manu and his father were then at Sambeto. I asked Chotabhai why he caused the fall and Chotabhai said that he had small children and the matter ended. Later my husband returned and heard what had happened. He took the boy and went to Chotabhai ; they  
50 talked for some time and Chotabhai admitted his fault. As we were leaving Manu came. There was no abuse when we were at Chotabhai's. The matter was not reported to the police. Manu's father told Chotabhai to

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let him know if the boy rode again and he would stop it. This was about September. We have had no other trouble with Chotabhai. Earlier on Chotabhai had lent us a hut and Manu had slept in it. He was not evicted from it by Chotabhai. We continued to deal at Chotabhai's store." So that she says there was no enmity between them and Chotabhai; but on the other hand when she was asked whether they had not complained against Chotabhai when their rice mill was fired upon she denied, first of all, that they had done so, and when she was reminded that she had made a statement to the police and that was read over to her she said yes they had said that. And what she said in her statement to the police was this : 10  
"I would not say that my family and Chotabhai's were on bad terms; we still speak to one another. I know my husband wrote a letter to Mr. Collins the District Commissioner mentioning the name of Chotabhai Patel and others. I know why the police were quartered at our house because we were in danger from the people mentioned in the letter we sent to the District Commissioner and the police were sent to us in response to that letter."

There, as I say, you have a conflict of evidence. You have seen these people in the witness box, and you have to decide between them—between Chotabhai and Yusuf, on the one hand, and Manu and his mother, 20 on the other.

Now, in regard to Lalji, he says they had had a case, and that was in December, 1943, and that they spoke when they met but that Manu did not come to his store after that incident. So that, although they were not on very bad terms, they were not on very good terms. And Manu, in reference to that, says himself; "I did have trouble with Lalji; he abused my parents and I remonstrated with him; he slapped me. There was no dispute about a lorry fare. I was fined by the Court. There has been no trouble between us since then (November, 1943)." He said in a previous statement, Exhibit X: "I do not visit Lalji's store as we 30 have a court case." Well, that seems to be the position between the accused and Lalji.

Another motive that has been suggested in this case, which, if I were you, I should ignore, is that the intention of Manu was to drive these Gujerati storekeepers out of Mulomulo with a view to his father setting up a store in their place. I advise you to ignore that because it is only a suggestion which has been put forward in cross-examination for the most part and it is not proved. The only person who said anything about it was Mandatt when he was in the witness box, and his, as you know, is not very satisfactory evidence and you would be unwise to take his bare 40 statement of a state of affairs which has not been established. I must say it seems to be the fact that before the shooting took place Manu's father had come to Lautoka. So you should not bother about that at all, but should confine yourselves to thinking about these incidents which Chotabhai has spoken about very clearly—the jack and the bure and the galloping horse, and so on—and, of course, what Manu and his mother have said in reply.

Now we come to what I call Manu's subsequent conduct—that is to say, conduct subsequent to the shooting; and by his conduct I mean the various statements that he made. We only need deal with the second, 50 third and fourth; there were seven actually.

The first statement, which was made early on the Sunday morning, is solely confined to giving an account of his whereabouts on the Saturday night ; that is all he was asked for, and it was only later in the day that the police wanted information as to what he was doing on the Saturday, and he gave a very full statement, his second. He mentioned going to Nandi, seeing a number of people—taxi drivers and other people—and he gave a full account of what he had done. But his statement is notable for two facts : his reference to having met Madre and spending a large part of the day with him was somewhat slurred over ; and the meeting between  
10 Madre and himself, on the one side, and Mandatt, on the other, is entirely concealed. Now that is a matter which you may think is of some importance, because he was giving this statement less than twenty-four hours after the events of which he was speaking and therefore they must have been quite fresh in his memory because he gives the names of all these people that he saw in Nandi. His reference to Madre—I think it is perhaps worth reading that : “ Then at about 2 p.m. I came back to his father’s house near the gate of the tennis court. There I met Madre.” (Well, one gathers that he must have met Madre a good deal earlier than that, because when asked in the witness box he said he met Madre at 12.30  
20 and then altered it to 1 o’clock.) “ We both came back to the town and I bought a packet of matches from Madre. That is, I gave Madre the money and he brought over the matches for me ; I do not know from where he got them.” Then all reference to Madre is dropped. He goes on : “ Opposite the taxi stand ” (there is no reference to going with Madre to the moneylender, or anything of that kind) “ I met Rup Narain once again ” (that is somebody he mentioned before). “ I went to sit in his car as the sun was hot and there I waited for the sun to drop before making my way home. Then at about 4 p.m. I started to walk home.” (He doesn’t say he started to walk home with Madre, which one would expect  
30 him to do.) “ Plenty of persons saw me as I was leaving town.” (Well the person who saw him best was the person who was with him.) “ I don’t remember if they knew I was going home. I saw the driver Mut-sammy Rama. I came back via the Sangam Temple short cut. I do not remember meeting anyone whom I happened to know between the Sangam Temple and my house. I got back home at 6.30. When I got back Mahommed Hanif was running the rice mill. I did not enter the mill I just heard it running. I went round the back way to my own room. I had a wash. I did not have dinner at home as I had already had it at Madre’s place in Nandi.” I don’t know why he said that—nobody has  
40 asked him about it—because Madre’s place is not in Nandi ; it is in the adjoining settlement to Mulomulo. But his reference as to the people who had seen him walking home in Madre’s company rather points to the fact that in this statement he slurred over his connection with Madre that day and omitted any reference to meeting Mandatt under the mango tree. He said he had forgotten ; can you accept that explanation ? The events were quite fresh in his memory. The suggestion of the prosecution is that he intentionally left out all reference to Mandatt because he knew Mandatt was connected with the crime and if he wasn’t careful was likely to connect him with the crime too ; and for the same reason  
50 his reference to Madre was nothing like as full or as candid as it might have been ; Madre was also present when he had this conversation with Mandatt under the mango tree, and naturally he wouldn’t want to give any reference to Madre for fear he might let out what had happened.

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Then there are what he calls himself his third and fourth statements, and he says that portions of those statements are not what he said at all. He said he was kept standing outside all day by Mr. Hooper and that when he was brought into Mr. Hooper's office he was treated roughly and questions were fired at him by a number of different police officers, and in the end he got tired of it all and said to the police, "Well, write what you like." The police, in particular Superintendent Hooper, have given evidence that that was not so at all; and there is this much about those third and fourth statements which you may consider somewhat significant as bearing on the facts as to whether these were really his genuine statements or whether, as he has said, they were words put into his mouth by the police. He says that when he was called in before Superintendent Hooper, Superintendent Hooper said to him: "Look here, you had better tell the truth. I know you are the ringleader in this matter and we are not going to put up with these lies any longer." Well, if that is true, then you would expect, in those third and fourth statements, to find a confession by Manu of his part in this affair, because, according to him, Superintendent Hooper said he was the ringleader and therefore the Superintendent, or any of the officers there disposed to write a statement on his behalf, would put Manu in as having confessed to playing a part in this affair. If you observe those third and fourth statements you won't find any confession on the part of Manu—no confession that he was the ringleader and no confession that he took any part in it at all. On the contrary, you will find that he is putting the blame on somebody else: for instance, in the third statement, on the 6th February, he begins for the first time to mention this incident under the mango tree which he concealed in his previous statement; and then he tells the story about Rampersad asking for his car to go to Savu Savu to get a rifle. That, by implication, is putting the blame on Rampersad. Then he says he is going to tell the truth, but he starts off again and says: "About 3 or 4 months ago Rampersad was chased away from Chotabhai's store and Rampersad threatened to fix Chotabhai up." That is putting the blame on Rampersad. Then he gives the same story about Rampersad wanting to hire his taxi to get a rifle, and then he repeats the story of the mango tree, only he adds a little to it this time—he says that when Mandatt told him he was going to get the rifle he said he was going to get it from the third accused. He hadn't said that before. And then he says (and this is quite new) that the following day, the Sunday after the shooting, Mandatt came to him and told him that it was he (Mandatt) and Rampratap who had done the shooting.

That was in the third statement. In the fourth statement a little more is added, and that little more is this: that at 1 o'clock on the night of the shooting, just after it had taken place, Rampersad woke him up and told him that he and Rampratap had fired at Chotabhai's store.

So the effect of those third and fourth statements is that the accused is showing, or pretending to show, an increasing knowledge of what happened that night, but he is certainly by no means confessing that he had any share in it; on the contrary, he is saying that it was done by Rampersad and Rampratap.

Finally, as regards Manu, there is the evidence of Mandatt, the second accused, which he gave in the box before you. That is evidence against himself and against the other two accused so far as they are concerned.

The statement which Mandatt gave to the police, and the statement which Rampratap gave to the police, are not evidence, as I have said before, against Manu, but the evidence that Mandatt gave from the box may be taken into account in considering Manu's case ; but you must remember what type of evidence it is and value it accordingly, because Mandatt is an accomplice and he is therefore a person who is himself a criminal and he is, as he clearly demonstrated in front of you, endeavouring to put all the blame on Manu so as to get out of it himself, so therefore what he says so far as it implicates Manu has to be examined with very great care.

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10 So, in brief, the evidence against Manu is that he had a motive to do this thing ; that his subsequent conduct, as can be seen from his statements, shows that he was a guilty person as far as this affair is concerned ; and, thirdly, the evidence of Mandatt, whatever you may think of it.

Now let us come to Mandatt. There is first of all his statement to the police. I don't think it is necessary for me to read it to you, but it is in effect, and I don't think it can be denied, a clear admission that he and Manu and Rampratap went to shoot up this store of Chotabhai's. They went out intending to do it and they did it. It is only since we came into this Court that we have heard this story of his never having made up his  
20 mind to do such a thing and that whatever he did was caused by fear of Manu.

Now his story to the police does not depend entirely on what he said himself ; there is a considerable amount of corroboration. For instance, there is Madre as to the meeting under the mango tree, and Manu himself agrees to that ; there is that witness Baksh, who saw him arrive at Tunalia and tie up his horse ; there are those two witnesses Jagnandan and Deonarain, who saw him and the third accused coming back at 4 o'clock in the morning to Tunalia ; there is the rifle and the proof that that rifle that Mandatt handed to the police was the rifle that fired those shots at  
30 the store ; and finally, there is the fact that Mandatt himself was able to go out with the police at night and point out various places where various things had been done—where the horses were tied, where the shots were fired from, where he stood, and so on. As far as Rampratap's statement to the police is concerned, which is very similar to Mandatt's, that is not evidence against Mandatt ; it was made in his absence.

Now his defence is, as I say, that he was not a party to this crime at all. You will notice that he has considerably improved on his statement to the police in his evidence in this Court—improved on it from the point of view of his own position. I think I shall have to go back to his statement. It  
40 has been suggested that he is really a person who has had a piece of bad luck—that he happened to be the person picked on to take the message to Rampratap about the gun. Pure chance. And then again it was pure chance that he came back with Rampratap, when really he intended to come back the following day. That is all in his evidence in this Court ; there isn't a word about that in his statement to the police ; at the risk of boring you, I shall have to read this to you again. This is what he said two days after the event : “ On Saturday after 3 o'clock on the 3rd February I was going to Tunalia on a mare. When I reached Nawaka I saw Manu and Madre on the road. Manu asked me where I was going. I said  
50 I was going to Tunalia. He enquired for what purpose. I said to get the gun. I went to Tunalia after that. I left Manu and Madre sitting under a tree. I went to Rampratap's house in Tunalia. Rampratap was not at

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home. I sat down and Rampratap came home. I had my meal in the evening with Rampratap. After meal I told Rampratap that Manu wanted gun. Rampratap went away towards the sugar cane and after a short while returned with gun. At 8 or 9 o'clock I and Rampratap went to Manu's house." That involves a journey from Tunalia to Mulo-mulo—and no word there as to having intended to come back the following morning and being persuaded by the prospect of Rampratap's company to come back that same night. "We reached Manu's house at about 10 or 11 o'clock and Rampratap gave the gun to Manu. Then we two sat with Manu . . ." There is no story there about his going back to his house to have a meal and coming back again, and Manu telling him to come back and refusing to tell him what he wanted him to come back for. That is what he said in this Court. Two days after the event he said to the police that after having arrived and given the gun to Manu they sat down with Manu, "and Manu said, 'Let us go and frighten Chotabhai with the gun.' Myself, Manu and Rampratap, three of us, went to Patel's store. When we three arrived under the mango tree Manu stood and started firing the gun at Chotabhai's store. After firing the bullets we returned to Manu's house. After coming there Manu fired the gun at Lalji's store. After this Rampratap took the gun from Manu. I and Rampratap then returned to Tunalia on horseback and Rampratap placed the gun in the sugar cane. Then I went with Rampratap to his house and slept there. Next day, Sunday, I returned home. When I reached Lalji's store Manu called me and asked me if I had given away the gun. I said 'yes'. After this I returned home. To-day the police enquired from me and I took the police with me and gave the gun. Q. From where the bullet was obtained?—A. The bullet was loaded in the gun and Rampratap had loaded it." He said when he was giving evidence that that was question and answer—that he had not said that at all. There is nothing in that story about his protesting at being taken down to this firing. He confessed that he was in this party who went out to frighten Chotabhai and in fact did go there and fire these shots, because he said that after sitting some time with Manu "Manu said, 'Let us go and frighten Chotabhai with the gun.' Myself, Manu and Rampratap, three of us, went to Patel's store."

So you have heard the story in the witness box, which does not agree, I think, with the story to the police, and you have got to make up your minds whether he was, as it appears he said to the police, one of the party which determined to do something and went out and did it, or whether, as is alleged now, he was not of the party, he had never come to any agreement with Manu or any other person to fire at this store, and if he went he went because he was frightened by Manu and had no option.

I think he said in his evidence that the reason they fired at Lalji's store was that they saw somebody moving about there. Well, that is something new; there is not a word about it in his statement to the police, and why that has been put in it is a little difficult to understand. That it was Valji moving about I think is highly improbable, because Valji's evidence is that he didn't come out of the front of the store, he came out of the back; and when he heard the shots being fired at his house he sat down promptly. It doesn't appear that Valji ever came round to the front of the store. Neither Rampratap nor Mandatt in their original statements refer to that person being out and about at that hour, and

it may be that that is a little bit extra that has been put on for some reason which I confess myself I cannot fathom.

I think that is sufficient about the second accused, and now we come to the third.

The third accused gave a statement, as you have heard, to the police, very similar in terms to Mandatt's, with this difference, and I think I ought to point it out to you. He said, talking of their arrival at Mulomulo : "Manu was standing outside his house. I gave him the gun. Manu said, 'Go and sit in the house.' I and Mandatt went with him and sat in the tin house. We were talking with him until late in the night. Then Manu said, 'Let us go and fire bullets at Chotabhai's store.' The three of us, Manu, Mandatt and I, went towards Chotabhai's store. On arrival near the mango tree Manu said, 'Wait, I am firing bullets now.' I said, 'Do not fire bullets, someone may die.' He said, 'Never mind. Let him die. If you will say something I will also kill you.'" And then he recounts what happened afterwards. Well, he has not given evidence before you, but counsel on his behalf has pointed to what he said in his statement to the police and he says there is no evidence that he was acting in concert with Manu and Mandatt and that he did his best to stop the shooting taking place. Well, what his view of it is you can only judge by this statement and the facts. He comes there, admittedly, late at night, having brought this gun which he gives to Manu (this is his own story), and Manu tells him to come in and sit down and he goes in and sits down, and they talk until late in the night. This is what he says himself : "Then Manu said, 'Let us go and fire bullets at Chotabhai's store.' The three of us, Manu, Mandatt and I, went towards Chotabhai's store." You would have thought that, if that were true and he was not a consenting party at all, when Manu said, "Let us go and fire at the store" he would then have said, "Not me." But he doesn't describe it like that, and after all we have only his statement to judge by. They walked to Chotabhai's store, or rather to the mango tree from which the bullets were fired. As you know, the tree is some distance from the rice mill. Then, on arrival, Manu said, "I am going to fire bullets now," and then, according to the third accused, he protested.

Now you have to decide whether this is true—that he was never a party to this thing—or whether, in his statement to the police, he put those words in with a view to protecting himself. I think it may be suggested that, unless he really were an interested party, he would never have left that night : he would have said, "You can go and fire bullets if you like, but I am not going with you"; but apparently he didn't. He reserved his protest, if he did protest, until they got some distance and were close to the store.

I think that is sufficient, gentlemen. I remind you that, as Mr. Prichard has truly said, the onus of proof in these criminal cases is upon the Crown, and you should consider the case of each one of these accused separately and you should not convict any of them unless you are satisfied beyond reasonable doubt that the crime has been brought home to him. And you will remember, on the subject of murder, that if they are to be convicted of murder you must be satisfied, not only that they took part in the shooting, but also that at that time they had the intention to cause death or grievous bodily harm. If you are not satisfied of that,

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none of them should be found guilty of murder. But if, on the other hand, you are satisfied that they did go in a party in common agreement to shoot up the store, that they were quite reckless whether they killed anybody or not, but that they had not formed any intention to kill, then your verdict should be manslaughter.

If you want to ask anything in the course of your deliberations, I should be only too glad to come back into Court and say anything I can.

3.15 p.m. Assessors retire.

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Verdict of  
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10th  
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No. 36.  
**VERDICT OF ASSESSORS.**

10

3.30 p.m.	First assessor	..	All Guilty of Manslaughter.	
	Second	..	do.	do.
	Third	..	do.	do.
	Fourth	..	do.	do.
	Fifth	..	do.	do.

VERDICT : All Guilty of Manslaughter.

LAL SINGH

Sub-Inspector of Police.

Birth certificate of accused (2)—15th February, 1927.

3668. I think you were stationed at Nadi for some considerable time ? 20  
—Yes.

3669. During the time you were there did you get to know the accused Emmanuel Joseph ?—Yes.

3670. Has he had any record at all with the police ?—No.

3671. What do you know about his circumstances ?—He is unmarried, living with his parents at Mulomulo. He is a taxi driver and a rice mill owner. He is about 23 or 24 years of age in my opinion.

3672. Is there anything you know of his character at all ?—No.

3673. By that you mean that as far as you know he is of good character ?—Yes. 30

3674. The accused Mandatt ?—Nothing against him in the Police Court. Unmarried, living with parents at Mulomulo.

3675. And you have known him for some time ?—Yes.

3676. As far as his character is concerned, you can say there is nothing against him ?—Yes.

3677. What about Rampratap ?—He is about, in my opinion, 19 or 20 years of age. Lives at Tunalia with his parents. Unmarried.

3678. Nothing wrong with his way of life, to your knowledge?—No.

*Rice* : My client appears to be the youngster of the three. He is only seventeen, and there is the fact, and a not unimportant one I think, that it was he who first told the truth to the police, and I would ask that that be taken into account. And indeed, but for him, the police might never have been put on the right lines. Also, if Your Honour pleases, and I think this applies to all three of the accused, he has been in gaol awaiting trial since early February.

10 *Sharma* : I would make a similar application relating to the age of the accused Rampratap. He is still of tender age. He has not reached the age of 21 years yet.

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Verdict of  
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No. 37.

SENTENCES.

*The Court* : Say to these three accused that they have been very properly convicted of an outrageous offence. If there had been any intention to cause the death of this child, or any of the inmates of that house, at the time of the shooting, they would certainly have been convicted of murder. I am satisfied that the head of this affair was the eldest of the three accused, 20 *Manu*, and his offence is the more serious because he is educated enough to have known better, and whatever his quarrels with *Chotabhai* and *Lalji* may have been, he had no business to drag these other two lads into it. The offence of all of them is serious and must be severely punished. I take into account that they have been in prison for some seven months awaiting trial.

*Manu* will go to penal servitude for five years and the other two to imprisonment with hard labour for two years.

No. 37.  
Sentences,  
10th  
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No. 38.

ORDER granting Special Leave to Appeal.

AT THE COURT AT BUCKINGHAM PALACE.

30 The 6th day of November, 1946.

Present

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT MR. SHINWELL

MR. SECRETARY WESTWOOD MR. TOMLINSON

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 30th day of October 1946 in the words following viz. :—

40 “ WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of *Emmanuel Joseph* in the matter of an Appeal from the Supreme Court of Fiji (Criminal Jurisdiction) between the Petitioner Appellant and Your

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Privy  
Council.*

No. 38.  
Order  
granting  
Special  
Leave to  
Appeal,  
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Privy  
Council.*

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Appeal,  
6th  
November  
1946,  
*continued.*

Majesty Respondent setting forth (amongst other matters): that this is an application for special leave to appeal *in forma pauperis* from a conviction and sentence in the Supreme Court of Fiji in its Criminal Jurisdiction: that the Petitioner was charged together with two others under Section 220 of the Penal Code of Fiji with the murder of a young child and was found guilty of manslaughter and sentenced to five years' penal servitude: that at the close of the case for the prosecution at the Trial in the Supreme Court there was no prima facie case against the Petitioner: that the evidence against the Petitioner really came after the close of the prosecution case from one of the other accused who tried to exonerate himself and throw the entire blame on the Petitioner: that Counsel for the Petitioner applied to the Trial judge for a separate Trial but the application was refused: that the Petitioner was entitled to a separate Trial and that the refusal to grant him one greatly prejudiced his case and was contrary to law: that it is submitted that the Trial did not comply with the requirements of the Criminal Procedure Code in Fiji: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal *in forma pauperis* from the conviction and sentence dated the 10th day of September 1945 of the Supreme Court of Fiji in its Criminal Jurisdiction or for such other Order as to Your Majesty in Council may seem fit:

“THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal *in forma pauperis* against the Judgment of the Supreme Court of Fiji (Criminal Jurisdiction) dated the 10th day of September 1945 but that the Appeal ought to be limited to the question of the effect upon the Trial before the said Supreme Court of the failure (if any) to comply with the requirements of the Criminal Procedure Code of the Colony of Fiji:

“And Their Lordships do further report to Your Majesty that the authenticated copy under seal of the Record produced by the Petitioner upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before Your Majesty on the hearing of the Appeal.”

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor or Officer administering the Government of the Colony of Fiji for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

## EXHIBITS.

*Exhibits.*

Exhibit "Q."

Q.

## STATEMENT of Mandatt.

Statement  
of Mandatt,  
6th  
February  
1945.Time 12 midnight.  
Nadi Station,  
Nadi Province.

6th February, 1945.

Name : Mandatt f/n Autar.

Address : Mulomulo, Nadi.

## 10 Occupation : Cultivator.

After being cautioned by Constable Nanka Singh I give my statement. On Saturday after 3 o'clock on the 3rd February I was going to Tunalia on a mare. When I reached Nawaka I saw Manu and Madre on the road. Manu asked me where I was going. I said I was going to Tunalia. He enquired for what purpose. I said to get the gun. I went to Tunalia after that. I left Manu and Madre sitting under a tree. I went to Rampratap's house in Tunalia. Rampratap was not at home. I sat down and Rampratap came home. I had my meal in the evening with Rampratap. After meal I told Rampratap that Manu wanted gun.

20 Rampratap went away towards the sugar cane and after a short while returned with gun. At 8 or 9 o'clock I and Rampratap went to Manu's house. We reached Manu's house at 10 or 11 o'clock and Rampratap gave gun to Manu. Then we two sat with Manu and Manu said let us now go and frighten Chotabhai Patel with the gun. Myself, Manu and Rampratap, three of us, went to Patel's store. When we three arrived under the mango tree Manu stood and started firing the gun at Chotabhai Patel's store. After firing the bullets we returned to Manu's house. After coming there Manu fired the gun at Lalji's store. After this Rampratap took the gun from Manu. I and Rampratap then returned to Tunalia

30 on horseback and Rampratap placed the gun in the sugar cane. Then I went with Rampratap to his house and slept there. Next day, Sunday, I returned home. When I reached Lalji's store Manu called me and asked me if I had given away the gun. I said yes. After this I returned home. To-day the police enquired from me and I took the police with me and gave the gun.

Q. From where the bullet was obtained ?

A. The bullet was loaded in the gun and Rampratap had loaded it.

I don't know Hanif. This is all my statement.

(Sgd.) MANDATT.

40 I certify that I have read over and explained whatever is written here to the person whose signature appears on this and he approved of it.

(Sgd.) NANKA SINGH, 12 m.n.

*Exhibits.***Exhibit " R. "****STATEMENT of Mandatt.**

R.  
Statement  
of Mandatt,  
7th  
February  
1945.

Nadi Station,  
Nadi Province.

7th day of February, 1945.  
2 a.m.

Name : Mandatt f/n Autar.

Address : Mulomulo, Nadi.

Occupation : Cultivator.

After being charged with the murder of Rabind and after being 10 cautioned by Constable Nanka Singh I give my statement :—

I do not wish to say anything because I have already given my statement.

(Sgd.) MANDATT.

I certify that whatever I have written on this I have read over and explained to the person whose signature appears on this and he approved of them.

(Sgd.) NANKA SINGH.  
2 a.m.

7/2/45. 20

S.

Statement  
of  
Rampratap,  
7th  
February  
1945.

**Exhibit " S. "****STATEMENT of Rampratap.**

Nadi Station,  
Nadi Province.

7th day of February, 1945.  
Time. 10.15 a.m.

Name : Rampratap f/n Mengre.

Address : Tunalia, Nadi.

Occupation : Cultivator.

Having been cautioned by Constable Nanka Singh I give my 30 statement :—

Between Saturday the 3rd February in the morning and Sunday the 4th I was at home. I did not leave my house and go anywhere. My brother Sadilal and Rampher were with me at home on Saturday in the day and at night. My mother and my brother Sadilal's wife and small children were at home. My elder brother Adi Prasad and my younger brother Hari Narain went away to Tavua on Wednesday the 31st December. On Saturday night I slept alone in a separate bure. In that bure I slept alone. Mandatt did not sleep with me on Saturday night. My brother Sadilal and his wife were sleeping in one house. My mother and the small 40 children were sleeping in another house and Rampher in another. No outsider was at home. No one came to meet me on Saturday either in the

day or at night. Mandatt did not come to my house on Saturday either in the day or at night. Yesterday, Tuesday the 6th the Police showed me a gun in my land which was placed in a cane row. I do not know anything about the gun. I have not been in that field for approximately one month. The whole day on Saturday I was lying down.

Rampratap's right-hand mark.

I hereby certify that whatever I have written on this I have read over and explained to the person whose signature appears on this and he approved of it.

10

(Sgd.) NANKA SINGH.  
10.15 a.m. 7/2/45.

*Exhibits.*  
S.  
Statement  
of  
Rampratap,  
7th  
February  
1945,  
*continued.*

**Exhibit "T."**

**STATEMENT of Immanuel Joseph.**

Taken at Natabua Gaol.

14th February, 1945.

Name : Immanuel Joseph. Age 21 years.

Address : Mulomulo, Nadi.

Occupation : Taxi Driver and Teacher.

T.  
Statement  
of  
Emmanuel  
Joseph,  
14th  
February  
1945.

20 After having been cautioned by Inspector S. Pratap that I am not obliged to say anything unless I wish to do so and that whatever I say will be taken down in writing and may be given in evidence, I do state at my own free will as follows :—

30 On Saturday morning I went to town for shopping. I came back from town about 4 p.m. I reached home at 6.30 p.m. and I went to bed at about 8 o'clock. Mohammed Hanif also went to bed with me. At about two o'clock in the morning, my mother came up and awoke me. Hanif got up before me and he opened the door. Mother came in and told me that shots are fired around our houses. She asked me how are we going to save ourselves. I told her we will not be able to go out. They might shoot us. I told them to lay down on the floor. We all laid down on the floor. After that I heard three shots. While there were no more shots fired, we slept on our bed. In the morning mother awoke us up again. As I came out I saw Mr. A. D. Patel's car stuck up in marsh. Mother asked me to recognize the car. I told her that it is A. D. Patel's car. We both went out in order to see the store where the shots have been fired. As we crossed our fence, Mr. A. D. Patel's chauffeur asked as to help in getting the car out. We went and helped him, and the second thing I saw that the constables and Sub-Inspector Lal Singh were in my compound. I went to them. S/I Lal Singh asked me if he can search  
40 my house. I told him he could do so. So he searched my house. That is all I wish to give in my statement. My third and fourth statements which I have given to Mr. Hooper are false statements. I was threatened and terrified and they made me state all false matters which I did not know. Mr. Hooper called me with bad words and made me stand the

*Exhibits.* whole day, which made me to say all the false matter. That is all I wish to say.

T.  
Statement  
of  
Emmanuel  
Joseph,  
14th  
February  
1945,  
*continued.*

(Sgd.) I. S. JOSEPH.  
1 p.m.

I hereby certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) S. PRATAP.

Inspector, Lautoka.

1 p.m. 14/2/45. 10

V.  
Statement  
of  
Rampratap,  
7th  
February  
1945.

**Exhibit "V."**

**STATEMENT of Rampratap.**

Nadi Station,  
Nadi Province.

7th February, 1945.

1 p.m.

Name : Rampratap f/n Mangre.

Address : Tunalia, Nadi.

Occupation : Cultivator.

Having been cautioned by Sub-Inspector Lal Singh I give my 20 statement.

Now I am giving a true statement.

Two weeks ago Manu brought gun to my house and told me to keep the gun at my house. I took the gun and concealed it on a hill. Last Saturday (3.2.45) Mandatt came to my house and said Manu wants the gun. After the evening meal I and Mandatt went to the hill and brought the gun. Then I and Mandatt went to Mulomulo on horseback. Went to Manu's house. Manu was standing outside his house. I gave him the gun. Manu said go and sit in the house. I and Mandatt went with him and sat in the tin house. We were talking until late in the night. Then 30 Manu said let us go and fire bullets at Chotabhai's store. The three of us, Manu, Mandatt and I, went towards Chotabhai's store. On arrival near the mango tree Manu said wait I am firing bullets now. I said do not fire bullets someone may die. He said never mind. Let him die. If you will say something I will also kill you. I became frightened. After going some distance from the mango tree Manu fired 7 or 8 bullets at Chotabhai's store. I was very frightened. After the shots were fired the three of us returned towards Manu's house. Manu fired three or four bullets at Lalji's store. Manu gave me the gun. I and Mandatt took the gun and arrived at Tunalia on horseback. Mandatt took the 40

gun from me and placed it in the sugar-cane. I saw where he kept the gun. After tying up the horses I and Mandatt went to sleep in the bure, and no other person slept in that house with us. Mandatt, after having his tea in the morning, came to Mulomulo. The police found that gun in my sugar-cane field. Mandatt showed the gun to the police. I was in the sugar-cane field when the police found the gun. The police then took Mandatt and myself to the police station. I did not see Hanif at Manu's house. I can show the police the place from where Manu fired the bullet.

*Exhibits.*  
V.  
Statement  
of  
Rampratap,  
7th  
February  
1945,  
*continued.*

10

RAMPRATAP'S left thumb mark.

I certify that whatever I have written on this I have read over and explained to the person whose signature appears on this and he approved of them and fixed his thumb mark.

(Sgd.) LAL SINGH.  
1 p.m.

---

**Exhibit "W."**

**STATEMENT of Rampratap.**

Nadi Station,  
Nadi Province.

7th day of February, 1945.

10.15 a.m.

[*sic.*]

W.  
Statement  
of  
Rampratap,  
7th  
February  
1945.

20

Name : Rampratap f/n Mangre.

Address : Tunalia, Nadi.

Occupation : Cultivator.

After being charged with the murder of Ravindra and after being cautioned by Sub-Inspector Lal Singh I give my statement :—

I did not kill Rabindra. Manu killed him. This is all I wish to say.

(Sgd.) RAMPRATAP'S left thumb.

30 I certify that whatever I have written on this I have read over and explained to the person whose signature appears on this and he approved of them and signed them.

(Sgd.) LAL SINGH.  
10.15 a.m.  
[*sic.*]



*Exhibits.*

X.  
Statement  
of  
Emmanuel  
Joseph,  
8th  
February  
1945.

## Exhibit "X."

## STATEMENT of Emmanuel Joseph.

Nadi Station,  
Nadi Province.

8th day of February, 1945.

6.30 p.m.

Name : Emmanuel Joseph.

Address : Mulomulo, Nadi.

Occupation : Rice Engine Driver.

After having been cautioned by Sub-Inspector Lal Singh I give my statement :— 10

On Saturday morning 7.00 a.m. (3.2.45) I came to Nadi and bought some goods and started to go home about 4 p.m. Mandraj was going with me. We went through Nawaka Road. While Mandraj and I sitting under mango tree I saw Mandatt coming from his home side towards Nadi on horseback. When he approached me I asked Mandatt where he was going. He told me that he was going to Tunalia. I asked him what for. He said he going to bring weapons from his brother-in-law Rampratap of Tunalia. I asked him what for he said you will see what will happen within this week. So saying he is getting late and he went away. After he went away Mandraj told me that Mandatt must be telling lies. I told him I also can't believe him. We both went to Mandraj's house and have our supper there. From there I went to my home. Mandraj stayed at his house. I went to bed at about 8 p.m. With Hanif. About 1.00 a.m. Ram Prasad awoke me up and told me that Ram Pratap his brother-in-law had fired shots at Chotabhai's store. He told me that Rampratap and himself will shoot other places. He told me to go on and sleep. This conversation took place in lorry garage. I then went away to sleep. Hanif did not wake up. The lorry garage in my compound. I was sleeping in my bed in rice mill when Rampersad awoke me up. Hanif was sleeping in bed in same room. Ramparsad awoke me up by calling Master Master. I got up and opened the door. He asked me did you hear the shots. I said no. I did not enquire what shots because I was very sleepy and went to bed. I did not awake till 6 a.m. when my mother awoke me. I heard three shots about 5 minutes after Ram Parsad left me. I have not told anybody that Ram Parsad came to me at 1 a.m. and asked me if I heard any shots. I did not know whom to tell. I now realize that I should have to tell the Police. After Ram Parsad left, my mother came and awoke me up. I heard three shots after my mother came—just Ram Parsad went my mother came. I watched Ram Parsad until he went off sight. I do not know what directions shots came from. I awoke up Hanif. I do not know how long my mother stayed in my room, after half an hour I went to sleep in my bed. I did not tell my mother or Hanif that Ram Parsad came and told me about shots. I remember I had conversation with Mandatt on Sunday. He then told me who had done the shooting I heard many shots being fired some distance from my house. One occasion shots fired through my Rice Mill where I live. About November last year Police 40

were stationed at my house because somebody fired at my house. The Police were in my house about four weeks. Despite this I did not tell the Police on Sunday when they took my statement, what Ram Prasad had told me because I was not asked. I did not tell Police what Mandatt told me—because I was not asked. In my statement of the 6th February I mentioned Mandatt what Mandatt had told me about the shooting—I gave it voluntary and was not asked. Mandatt neither friend or enemy of mine. I do not know Ram Pratap. Chota Bhai Patel is not enemy of mine. He is not friend of mine. I do not visit his store. I have no time to visit his store. I have never been bad terms with Chota Bhai Patel. I do not visit Lalji store even—because we have Court Case. I never borrowed jack from Chota Bhai Patel. There was no well in Rice Mill compound when we came over from school. I dugged the well, it took two months to dig, during the time we used to bring water from Chota Bhai Patel's. I know Mohamed Hanif from schooldays. He works in my mill from middle of January this year.

*Exhibits.*  
X.  
Statement  
of  
Emmanuel  
Joseph,  
8th  
February  
1945,  
*continued.*

(Sgd.) I. S. JOSEPH.

I certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) LAL SINGH S.I.  
6.30 p.m.

---

**Exhibit " Y. "**

**STATEMENT of Emmanuel Joseph.**

Nadi Police Station,  
Nadi Province,

8th day of February, 1945.

Name : Emmanuel Joseph.

Address : Mulomulo, Nadi.

30 Occupation : Rice Engine Driver.

Y.  
Statement  
of  
Emmanuel  
Joseph,  
8th  
February  
1945.

After having been charged with murder of Ravindra and cautioned by S. I. Lal Singh I gave my statement. I do not wish to make any further statement. I did not kill him. That's all.

(Sgd.) I. S. JOSEPH.

I hereby certify that I have read and explained the contents of this statement to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) LAL SINGH. 9.33 p.m.

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*Exhibits.*

Z.  
Statement  
of  
Emmanuel  
Joseph,  
4th  
February  
1945.

## Exhibit "Z."

## STATEMENT of Emmanuel Joseph.

Nadi Province.

4th February, 1945.

Name : Immanuel Joseph f/n Joseph.

Address : Mulomulo, Nadi.

Occupation : Driver.

I do state as follows :—

Last night at about 1 or 2 p.m. while myself and Hanif sleeping in the rice mill I heard my mother calling me, and said the shots had been fired 10 somewhere. We both woke up. Little later we heard 3 shots fired towards Lalji's store. We did not do anything nor we go anywhere, but we all lie down on the floor. Yesterday in the morning at about 8 a.m. I went to town, I went for shopping. I come back at about 6 p.m. I came home had my bath, had my meal then I go to sleep. I slept at about 8 p.m. One Hanif is working for us, from last three weeks. He is running the rice mill. On Friday the 2nd inst. Hanif had gone away to his house. He came back yesterday morning after I left to Nadi. Hanif is working for us just because my brother is sick. I did not heard last night that shot was fired at Chota Bhai's store. We did not heard any noise last night. 20 I have no enmity with Chota Bhai. We are on speaking terms with each other but we are not visiting at each other's. I did not fired shot at Chota Bhai's store nor Mohammed Hanif. My father had gone to Lautoka, he is putting us a store. He used to visit at times here, he did not come here since last 8th January, 1945. Mohammed Hanif was all the time with me from evening till this morning. We both sleeping in one room.

(Sgd.) I. S. JOSEPH.

Taken by me.

(Sgd.) P. C. RAMCHARITRA. 7.10 a.m.

BB.

Statement  
of  
Emmanuel  
Joseph,  
4th  
February  
1945.

## Exhibit "BB."

## STATEMENT of Emmanuel Joseph.

30

Taken at Mulomulo, Nadi.

4th February, 1945.

Name : EMMANUEL JOSEPH, Christian Indian, f/n K.P. Joseph.

Address : Mulomulo, Nadi.

Occupation : Driver.

I got out of bed at about 7 a.m. After having a shower I had my breakfast and at about 8 a.m. I walked to Nadi Town for the purpose of doing some shopping. I went to town with Vangopal of Mulomulo. I met one or two old men whom I don't remember. When we reached town 40 I went first to the Sangam Temple. Just as I entered the Temple compound I saw the driver of lorry No. 1005. His name is Dwaka Pershad. He

said to me "Coming up to town"? I said "Yes" and Vangopal and myself went with him. He dropped us near the taxi stand. This was about 10 a.m. I and Vangopal then parted and I went up to the Tailor Morar. I discussed clothes with him. From there I went back to the stand. I met there the driver of 942, Sheer Mohd. He asked me if I had been in town for long and I told him yes. From there I saw some other drivers. One of them asked me about my car. His name was Rub Narain. I told him that it was broken too badly and I was not going to have it registered. After some time I went away to the garage belonging to

10 Mr. Moyadeen. I got there about midday. I started there to help the driver of 1191 to fit valve caps to the car of Venkatayia. I stayed in the garage for about two hours. Then at about 2 p.m. I came back to his father's house near the gate of the tennis court. There I met Madre. We both came back to the town and I bought a packet of matches from Madre. That is I gave Madre the money and he bought over the matches for me. I do not know from where he got them. Opposite to the taxi stand I met Rub Narain once again. I went to sit in his car as the sun was hot and there I waited for the sun to drop before making my way home. Then at about 4 p.m. I started to walk home. Plenty of persons

20 saw me as I was leaving town. I don't remember if they knew I was going home. I saw the driver Mutasammy Rama. I came back via the Sangam Temple short cut. I do not remember meeting anyone whom I happened to know between the Sangam Temple and my house. I got back home at 6.30. When I got back Mohammed Hanif was running the rice mill. I did not enter the mill I just heard it running. I went round the back way to my own room. I had a wash. I did not have dinner at home as I had already had it at Madre's place in Nadi. I went to bed at about 8 p.m. Myself and Hanif went to bed at the same time. I waited before going to bed to allow Hanif to have his dinner and when

30 he came in we both went to bed together. We closed the door and put out the light and then we went to sleep. Being very tired at having walked so far, I fell into a deep sleep. The next thing I remember was my mother banging at the door asking me to wake up. I got up and on opening the door I saw my brothers and sisters all behind my mother. I asked Mother what was the trouble. She told me that gun shots had been heard around this side and she asked me how shall we save ourselves. In the meantime I woke up Hanif and I asked him what shall we do now. Just at that moment we heard another shot. When we heard that I told everyone to lie down on the floor and we all did so. Three shots were

40 heard. After a bit when all was quiet we heard a horse galloping on the way, Hanif made a remark to me about the horse, he said "Can you make out whose voice was that?"—at this time the man riding the horse was sort of chanting. I told him it was impossible for me and we kept quiet. We waited for a long time. We slept on the floor until morning being frightened to go back to bed. In the morning, Mother opened the door and woke us up. This was about 5.30 a.m. She told us that a car had been stuck up on the road. She asked me whose car it was. I woke first, Mohd. Hanif was still asleep. I woke Hanif up and I told Mother that the car belonged to A. D. Patel after having a look to see to whom

50 the car belonged. My mother told Hanif and I that there was a crowd of people near Chaganbhai's store. I said to her lets go and see what has happened there. Hanif was with me the whole time and he could

*Exhibits.*  
 BB.  
 Statement  
 of  
 Emmanuel  
 Joseph,  
 4th  
 February  
 1945,  
*continued.*

*Exhibits.*  
 BB.  
 Statement  
 of  
 Emmanuel  
 Joseph,  
 4th  
 February  
 1945.  
*continued.*

hear what I said to my mother and she to me. Hanif said " Lets go and see what has happened." We went to the pipe and cleaned our faces and as we crossed the wire starting to go to the store Mr. A. D. Patel's chauffeur called us and asked us to push his car. We both did that. When we got the car out of the mud we saw Sub-Inspector and a few police in our compound. The S/I asked me where my father was. I told him in Lautoka. The last time my father was at the rice mill was the first week in January of this year. Our house was searched. We allowed him to do so without demur. The S/I ordered Hanif and myself to stand apart. Constable Tulsi Ram told me about the death by shooting of the child. 10 I do not know who told Hanif. Neither Hanif or myself were out of bed before A. D. Patel's car came, I am quite sure about this. I was sleeping at home last Friday night. Hanif was away on Friday night, he told me that he was going to sleep at home. Hanif came back on Saturday morning but after I had left for town. When Hanif goes to his house he always takes my horse. I keep my horse in my compound. It is there now. I know Hanif had my horse that morning because I myself was forced to walk to town on the Saturday morning. I went to have a look at Chaganbhai's house it was between 8 a.m. and 9 a.m. Mohd. Hanif did not go with me as he was with the police. That was the first 20 time I visited the house since the shooting. I also attended the funeral behind the store this afternoon. We, Chaganbhai's family and ours are not what you would call on visiting terms but whenever we see each other we just pass the time of day quite civilly. We have never had the least trouble with Chaganbhai. When I went to Chaganbhai's store at between 8 and 9 a.m. I did not speak to him but I did hear him explaining to a big crowd of Gujeratis what had happened. My mother never goes to Chaganbhai's store. I don't know why, it is up to her.

(Sgd.) I. S. JOSEPH.

I hereby certify that I have taken down and read over the contents 30 of this document to the person whose name is annexed hereto that such person appears to understand the contents which were taken in the English language in the presence of S/I Lal Singh and in which language deponent is literate—and they are approved by the person whose name is annexed hereto.

Mulomulo. 9.45 p.m. on 4.2.45.

**Exhibit "CC."**

**STATEMENT of Emmanuel Joseph.**

6-2-45.

CC.  
 Statement  
 of  
 Emmanuel  
 Joseph,  
 6th  
 February  
 1945.

Immanuel Joseph further states. On Saturday 3/2/45 I left Nadi 40 Town at about 4 p.m. Mandray came with me—we walked. At Salovi we sat down under a mango tree. I don't know whose house it is near. Whilst there I saw Mandat, Rampersad's brother, ride towards us from Mulomulo towards Nadi. I asked him where he was going to. He said he was going to Tudalia. I asked him what for—he said he was going to get the ammunition and you people shall see what will happen this week. I asked him what particular place he was going to and he said his brother-in-law's place. He said it was getting late and he had better go on. The time would be about 5 p.m. Mandray heard this conversation. I did not see Mandat again till Sunday evening 4/2/45 50

on horseback outside Lalji's store. I did not speak to him. I did not see . . . samy on Saturday 3/2/45. I know him well. I remember about 6 weeks ago Mandray and Gangiya came to my house about 6 p.m. Mohammed Hanif was with me when they came. We were drinking beer. M. Hanif got drunk. I was also under the influence of liquor and don't remember what anybody said. Hanif slept at my house this night. I learnt next morning that Mandray and Gangiya left during the night. Rampersad does not come into my house—he had never been inside the house. He has been to the Rice Mill when bringing

10 paddy. I remember about 6 weeks ago Rampersad was in the Rice Mill, I think Mandray was there. I don't remember if anybody else was here. I heard Rampersad say to me "If my car can go as far as Momi"—I said what for—he said he was going to get a rifle from Savusavu from Rameshwar Prasad who used to drive my lorry before. I said I could not take the car as far as that. I now wish to tell the truth : About 3-4 months ago Rampersad went to Chotubhai's store. Rampersad was chased away by Chotubhai. Rampersad came to me at my house. He told me that Chotubhai had chased him away from the store. I asked him what for—

20 he said that Chotubhai had a suspicion that he had thrown stones at his store. Rampersad said that he would fix him up. I asked him why he threw stones at his store and he said he had not. Rampersad then went away. About the middle of December Rampersad came to the Rice Mill with paddy. He asked me for my car. Mandray was present and heard what was said. Hanif was also close by and probably heard. I asked him why he wanted a car and he said he wanted to get a rifle. I asked where he wanted to get it from—he said from Rameshwar Prasad's place in Savu Savu. I told him I could not take my car for this business because it might be searched on the way. I also said that my tyres were old and could not go so far. I did not say that I would get a car from Warid. I

30 did not ask him why he wanted the rifle. Rampersad then left. The next thing that happened was last Saturday 3/2/45 when Mandray and I met Mandat when we were under the mango tree already referred to in this statement. Mandat said he was going to get the weapons and not ammunition as I said before. I asked Mandat from whom he was going to get it from and he said his brother-in-law Rampertap. Mandat was riding a red mare with a white mark on its forehead. It was Mandat's own horse. The next Sunday 4/2/45 I saw Mandat on the same horse riding on the road from direction of Nadi. He went into Lalji's compound and was looking at the crowd searching round the bushes near my place. I was in my

40 compound then. I called Mandat and he came to me. I asked him who did the shooting at Chotubhai's store last night. He said we did it. I asked him who were we and he said Rampertap and Rampersad. I asked him where he had just come from and he said Tunalia. I asked him when he went there and he said after the shots were fired with Rampertap and returned alone. I told him that a baby had been killed and a boy injured. Mandat looked ashamed and went away.

(Sgd.) I. S. JOSEPH.

I certify that I have read and explained the contents of this document to the person whose name is affixed hereto and that such person appeared

50 to understand its contents and approve of them.

(Sgd.) B. HOOPER,  
Supt.

*Exhibits.*  
CC.  
Statement  
of  
Emmanuel  
Joseph,  
6th  
February  
1945,  
*continued.*

*Exhibits*

Exhibit "DD."

## STATEMENT of Elizabeth Joseph.

DD.  
Statement  
of  
Elizabeth  
Joseph,  
4th  
February  
1945.

Taken at Mulomulo, Nadi.  
Nadi Province.

4th day of February, 1945.

Name : Elizabeth Joseph.

Address : Mulomulo, Nadi.

Occupation : Housewife.

My son Emmanuel went to Nadi yesterday at between 7 p.m. and 8 p.m. [*sic.*] He went to do some shopping for the family. He came back 10  
in the evening at about 6.30 p.m. The night before the shooting, Friday  
night, Mohammed Hannif went home to Nawaka and slept there, he  
returned the next morning at about 8.30 ; this was after my son had left  
for Nadi. Mohd. Hanif rode my son's horse from Nawaka. He always  
uses that horse when he goes home. As soon as Hannif arrived in the  
compound he started up the rice mill. I think he stopped the mill about  
10.30 a.m. He lunched with me at about 12.30. He had dhal and rice  
for lunch. My young children Tara and the other were there. After  
lunch Mohd. Hannif went up to Narain Sammi's house. I do not know  
why he went. He came back to the mill at about 4.30 from Narain's 20  
place and started up the mill. After closing down the mill Mohd. Hannif  
was sitting inside the thatched house. He was reading a book. My  
small children were in there with him. *He played draughts with Tara.*  
He did not play any other game with the children. He did not play  
cards with either of them, both my children are too young for that. I  
don't know what time Mohammed Hannif went to bed, I did not notice  
the clock. I went to bed at the same time as he did. I sleep in the  
thatched room. I don't know what the time was but the next thing I  
remember was hearing gun shots. When I heard the shots my three  
children and myself got under the bed. I could not count the shots. 30  
They were very close. When the shooting ceased, I came to where  
Emmanuel and Hannif were sleeping in the rice mill ; both were sound  
asleep. I woke up Emmanuel and I woke up Hannif at the same time.  
I asked them if they had heard the shots and they both said "No." We  
sat there for a bit listening to see if there were to be any more shots. Then  
we heard three more in the direction of Lalji's store. We all got down  
on the floor. I then heard someone going away on horseback. I did  
not hear the sound of any chanting or singing. I made a mistake there.  
I did hear someone singing on horseback. No one said anything about the  
singing. Then I got up and went back to my own house and went to sleep. 40  
In the morning I got up and on going outside I saw a car stuck outside  
our house in the mud. I went to the rice mill and told them there was a  
car stuck outside and to get up and help to push it out. Both boys got  
up together, went to wash their faces and then went to push out the car.  
I did not say anything to the boys about going over to see what was hap-  
pening at Chotabhai's store because it was not until the police came that  
I saw them. We had a slight quarrel last year with Chotabhai but it was  
patched up and we are now on good terms with them. I never go to

Chotabhai's store. We buy all our goods from Nadi. The last time my husband was in Mulomulo was on January eight of this year. No one asked me personally to help push out the car. I was not surprised to see the crowd in the morning at Chotabhai's house because I connected their presence with the shooting on the previous night. The same thing happened at my house when we were shot up. I heard from a policeman that Chotabhai's son had been killed. I did not go to see the house because the police instructed us all not to leave. After the police had gone I did not go across to see Chotabhai. I did not go because the S/I had told us not to leave the compound and I understand this to mean that we were not to leave even after the police had gone. I know the S/I did not return until 3.30 p.m. If the S/I had not told us to remain in the compound I would have gone straight away. Yes, I know my son went and as he was leaving the compound I called out to him to remember what the S/I had said. He replied, "Look, we've not done anything and I am going to see the place." My husband was the headmaster of the school here in 1943. I do not know why my husband left the service of the school. I used to visit Narain Sammi's house but have not done so recently, not since the last six months. I would not say that my family and Chotabhai's were on bad terms, we still speak to one another. I know my husband wrote a letter to Mr. Collins the District Commissioner mentioning the name of Chotabhai Patel and others. I know why the police were quartered at our house because we were in danger from the people mentioned in the letter we sent to the District Commissioner and the police were sent to us in response to that letter. This afternoon, I sent my small boy on horseback to Madre's place, I sent word to him to tell him to come and run the rice mill. He came.

(Sgd.) MRS. K. P. JOSEPH.

I hereby certify that I have taken down and read over the contents of this document in the English language in which deponent is literate, and that the person whose name is annexed hereto appears to understand the contents and to approve them.

(Sgd.) JOHN H. SPENCER,

Asst. Supt. of Police, Nadi.

10.30 p.m., Mulomulo.

*Exhibits.*  
 DD.  
 Statement  
 of  
 Elizabeth  
 Joseph,  
 4th  
 February  
 1945,  
*continued.*



LIST OF DOCUMENTS AND EXHIBITS OMITTED FROM THE RECORD BY  
CONSENT.

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Exhibit A	..	.30 Carbine.
B	..	Tin Box.
C	..	.30 Bullet.
D	..	.30 Bullet.
E	..	.30 Bullet.
F	..	.30 Bullet.
G	..	Empty Cartridge Case.
H	..	Empty Cartridge Case.
I	..	Empty Cartridge Case.
J	..	Empty Cartridge Case.
K	..	Photograph of bases of cartridge cases.
L	..	22 fired cartridge cases.
M	..	Four test bullets.
N	..	Four Cartridge Cases.
O	..	X-Ray Photograph.
P	..	Rag.

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