



CHARGE SHEET

(Under Section 173 CrPC)

IN THE COURT OF SPECIAL JUDGE, NIA, GUWAHATI

1.	Name of the Branch	NIA Branch office Guwahati
	FIR No year and date	RC-01/2015/NIA-Guw, Date:- 20/02/2015
2.	Final Report/Charge Sheet No.	XXXXXXXXXX
3.	Date	02/02/2018
4.	Section of Law	120(B), 121, 121(A), 122, 302, 307,326and 34 of the Indian Penal Code &Sections 25 (1-A), 27 of the Arms Act and Sections 16, 18, 19, 20 & 39 of the Unlawful Activities (Prevention) Act, 1967.
5.	Type of Final Report	Supplementary Charge sheet-III
6.	If Final Report Un - occurred/ false/mistake of fact/ Mistake of law /Non - cognizable / Civil nature	Not applicable
7.	If charge-sheeted original / Supplementary	Supplementary Charge Sheet-III
8.	Name of investigating officer	XXXXXXXXXX

9.	Name of complainant / informant	XXXXXXXXXXXX
10	Details of Properties / Articles / Documents recovered / seized during the investigation and relied upon	XXXXXXXXXXXX

11. Particulars of accused person charge sheeted:

A-19

Name	 <p>Sangkhang Basumatary @ Saolen @ Shailendra Basumatary (hereinafter referred to as A-19)</p>
Whether verified	Yes
Father's Name	Sh. Pratap Basumatary
Age /Date of Birth	27
Sex	Male
Nationality	Indian

Passport No	N/A
Place of issue	N/A
Date of issue	N/A
Religion	Hindu
Occupation	Trained NDFB(S) cadre
Address (Present/Permanent)	Vill – Aflagaon (North), PO- Aflagaon, P.S.- Serfanguri, Dist. - Kokrajhar (BTAD) Assam.
Whether verified	Yes
Provisional Criminal No.	N/A
Regular Criminal No. (if known)	N/A
Date of Arrest	08.08.2017
Date of release on bail	N/A
Under Acts & Sections (of charge sheet)	Sections 34, 120(B), 121, 121 (A), 302,307,326 of the Indian Penal Code. Sections 16 (1) (a), 18 & 20 of the Unlawful Activities (Prevention) Act 1967.
Name (s) of bailer/sureties and address	N/A
Previous convictions with case reference	N/A
Status of the accused	Arrested and presently in Judicial custody at Central Jail Guwahati, Assam.

Bidai @ BishnuGoyari @ HarengaGoyari

A-14 (Absconding)

Name	 Bidai @ BishnuGoyari @ HarengaGoyari (hereinafter referred to as A-14)
Whether verified	Yes
Father's Name	Late Sh. Golak Goyari
Age /Date of Birth	33 yrs. approx.
Sex	Male
Nationality	Indian
Passport No	N/A
Place of issue	N/A
Date of issue	N/A
Religion	Hindu
Occupation	Trained NDFB(S) leader
Address (Present/Permanent)	Village- Moinamata (Oxiguri), P.S. - Gobardhana, Dist. – Baksa, (BTAD) Assam
Whether verified	Yes

Provisional Criminal No.	N/A
Regular Criminal No. (if known)	N/A
Date of Arrest	Not arrested(Absconder)
Date of release on bail	N/A
Under Acts & Sections (of charge sheet)	Sections 34, 120(B), 121, 121 (A), 302, 307, 326 of the Indian Penal Code. Sections 16 (1) (a), 18 & 20 of the Unlawful Activities (Prevention) Act 1967.
Name (s) of bailer/sureties and address	N/A
Previous convictions with case reference	N/A
Status of the accused	Absconding

BinodMushahary @ M. Biban @ Batha
A-15 (Absconding)

Name	 <p>BinodMushahary @ M.Biban @ Batha (hereinafter referred to as A-15)</p>
Whether verified	Yes

Father's Name	Late Thoren Mushahary
Age /Date of Birth	45yrs.approx.
Sex	Male
Nationality	Indian
Passport No	N/A
Place of issue	N/A
Date of issue	N/A
Religion	Hindu
Occupation	Trained NDFB(S) leader
Address (Present/Permanent)	Vill- Daolabari, P.S. - Runikhata, Dist. – Chirang, BTAD, Assam.
Whether verified	Yes
Provisional Criminal No.	N/A
Regular Criminal No. (if known)	N/A
Date of Arrest	Not arrested (Absconding)
Date of release on bail	N/A
Under Acts & Sections (of charge sheet)	Sections 34, 120(B), 121, 121 (A), 302, 307, 326 of the Indian Penal Code. Sections 16 (1) (a), 18& 20 of the Unlawful Activities (Prevention) Act 1967.
Name (s) of bailer/sureties and address	N/A
Previous convictions with case reference	N/A

Status of the accused	Absconding
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Swadwb Brahma @ SwmdwnRava
A-20(Absconding)

Name	 <p style="text-align: center;">Swadwb Brahma @ SwmdwnRava (hereinafter referred to as A-20)</p>
Whether verified	Yes
Father's Name	
Age /Date of Birth	25 yrs. approx.
Sex	Male
Nationality	Indian
Passport No	N/A
Place of issue	N/A
Date of issue	N/A
Religion	Hindu

Occupation	Trained NDFB(S) cadre
Address (Present/Permanent)	No.6 Dipanjili village, PS-Rangapara, Dist. -Sonitpur, BTAD, Assam.
Whether verified	Yes
Provisional Criminal No.	N/A
Regular Criminal No. (if known)	N/A
Date of Arrest	Not arrested (Absconding)
Date of release on bail	N/A
Under Acts & Sections (of charge sheet)	Sections 34, 120(B), 121, 121 (A), 302,307,326 of the Indian Penal Code. Sections 16 (1) (a), 18 & 20 of the Unlawful Activities (Prevention) Act 1967.
Name (s) of bailer/sureties and address	N/A
Previous convictions with case reference	N/A
Status of the accused	Absconding

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

(A-17)

Name	Birmal Narzary@ Birkhw@ Sandaw, (hereinafter referred to as A-17)
Whether verified	Yes
Father's Name	Sh. Soni Ram Narzary
Age /Date of Birth	

Sex	Male
Nationality	Indian
Passport No	N/A
Place of issue	N/A
Date of issue	N/A
Religion	Hindu
Occupation	Trained NDFB(S) cadre
Address (Present/Permanent)	Vill.- No. 2 Bhawraguri, PS- Kokrajhar (Karigaon PP), Dist-Kokrajhar, BTAD, Assam.
Whether verified	Yes
Provisional Criminal No.	N/A
Regular Criminal No. (if known)	N/A
Date of Arrest	Not arrested
Date of release on bail	N/A
Under Acts & Sections (of charge sheet)	Under Investigation
Name (s) of bailer/sureties and address	N/A
Previous convictions with case reference	N/A
Status of the accused	Wanted

A-21

Name	 <p>Rakheb Basumatary @Rakeb (hereinafter referred to as A-21)</p>
Whether verified	Yes
Father's Name	To be ascertained
Age /Date of Birth	
Sex	Male
Nationality	Indian
Passport No	N/A
Place of issue	N/A
Date of issue	N/A

Religion	Hindu
Occupation	Trained NDFB(S) cadre
Address (Present/Permanent)	Dhekiajuli, Dist.- Sonitpur, Assam.
Whether verified	On the process of verification
Provisional Criminal No.	N/A
Regular Criminal No. (if known)	N/A
Date of Arrest	Not arrested
Date of release on bail	N/A
Under Acts & Sections (of charge sheet)	Under Investigation
Name (s) of bailer/sureties and address	N/A
Previous convictions with case reference	N/A
Status of the accused	Wanted

13.

(i) **Particulars of Witnesses examined:** XXXXXXXXXXXX

(ii) **List of Documents :** XXXXXXXXXXXX

(iii) **List of Material objects :** XXXXXXXXXXXX

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

15. **Result of laboratory Analysis:-** XXXXXXXXXXXX

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

- 16.1** This case was initially registered by Assam Police at Serfanguri Police Station (Kokrajhar District, Assam) under Sections 120(B), 121, 121 (A), 122, 302, 307, 326 of the Indian Penal Code (hereinafter also called as “IPC”) and section 25(1A)/27 of Arms Act and 10/13 of the Unlawful Activities (Prevention) Act 1967(hereinafter also called as “**UA(P) Act**”), vide case No.65/2014 dated 24.12.2014 against a group of *Songbijit faction of NDFB[National Democratic Front of Boroland]*(Hereinafter also called as ‘**NDFB(S)**’), a proscribed terrorist organization as per UA (P) Act, 1967. The complainant XXXXXXXXXXXX reported that a group of NDFB(S) militants armed with sophisticated firearms came to his and nearby houses and fired indiscriminately on 23/12/2014 at about 6.15 PM resulting in death and severe injuries to members of his own family member and those of his neighbours.
- 16.2** The above mentioned FIR was re-registered *mutatis mutandis* out of the above mentioned Serfanguri PS case. The National Investigation Agency (hereinafter also called ‘NIA’) took over this investigation in accordance with a Ministry of Home Affairs, Government of India’s (hereinafter called ‘MHA’) order no. F No. 11011/66/2014-IS. IV dated 16.02.2015.Sections 34 of the IPC, and Sections 16, 18, 20 & 39 of Unlawful Activities (Prevention) Act, 1967 were added subsequently during the course of further investigation when additional facts and materials were collected.
- 16.3** The National Investigation Agency started the investigation from the inspection of the scene of crime, search of scene of crime, examination of eye witnesses as well as circumstantial witnesses and interrogation of surrendered as well as arrested NDFB(S) cadre in other cases by the local police. The role of accused A-19 came on record during the course of investigation as being a cadre of the NDFB(S) who conspired and carried out the killing of innocent XXXXXXXXXXXX at village namely Pakriguri by firing indiscriminately resulting into killing of 05 XXXXXXXXXXXX and injuring 04 others. This CIO after investigation has already submitted three charge sheets against a total of 14 (fourteen) accused persons in this case wherein the entire sequences of formation of conspiracy and its execution has been explained and substantiated from evidence. This squad (also named as a self-styled ‘Serfanguri Platoon’) of terrorist of which A-19, A-14, A-15 and A-20were

member was led on that fateful day by Jagat Basumatary @ Jwblang (hereinafter called as 'DA-1') and Milan Mushahary @ Mithinga (hereinafter called as 'A-1'). Their involvement as members of this 'Serfanguri Platoon' which committed the massacre in Pakriguri has been substantiated from variety of sources and credible evidences have been collected.

17. Facts Disclosed During Investigation:

17.1 As also mentioned in the three separate Charge Sheets against a total of 14 (fourteen) accused persons submitted earlier on the same case on 03.07.2015, 14.03.2016 and 10.08.2016. It has been established that during the month of December, 2014, senior leadership of NDFB (S) hatched a criminal conspiracy to commit terrorist acts to further continue their war against the Indian Union. The terrorist act which became subject of this investigation was designed to give a strong message to all ethnic communities of XXXXXXXXXXXX stock to desist from any XXXXXXXXXXXX agenda as perceived/suspected by the high leadership of NDFB(S). This terrorist act was a result of a highly irredentist and separatist ideology espoused by NDFB(S). It was surfaced during investigation that accused person's DA-1, DA-2, DA-3, A-1, A-2, A-3, A-4, A-5, A-11, A-12, A-13, A-16, A-19 and A-20 most willingly took part in a gruesome act of massacre, on being instructed/directed by their senior leaders which included A-14 and A-15, wherein they killed and maimed innocent civilians belonging to Pakriguri village.

17.2 As explained extensively in the earlier charge sheets submitted in the matter, NDFB (S) is an unlawful association as per the schedule of Unlawful Activities (Prevention) Act, 1967, and mentioned at serial No. 12 of the (First) schedule in the aforementioned Act. NDFB(S) has engaged in most gruesome acts of ethnic cleansing, extortion, killings of civilians and those of security forces etc. The organisation is continuing in its chosen path of war with the Government of India and is one of the most dreaded terrorist organization operating in the north east. Its leaders have taken refuge in neighbouring countries in areas that are inaccessible and remote. This

investigation mounted relentless efforts to nab and prosecute those who directed a series of massacres and executed the massacre in the instant case on the 23rd of December, 2014. As a result of this present investigation a total of 14 (fourteen) accused persons have been arrested and being prosecuted in this Hon'ble Court of Law.

17.3 After completion of initial investigation, adequate evidences were collected against 10 arrested accused persons i.e. A-1 to A-10 and a Charge sheet was filed against all the 10 accused persons on 03rd of July, 2015 under appropriate sections of the IPC, Arms Act and UA(P) Act in this Hon'ble Court. Subsequently, during further investigation **A-11**(Amal Mushahary @ Aogoi) was arrested by Siliguri Police, West Bengal in connection with Kumargram P/S Case No. 291/13, subsequent to this **A-12**(Khonasang) was arrested at Kokrajhar in connection with Kokrajhar P/S Case No. 845/2015 on 01/11/15. Subsequent to this, **A-13**(Jangsha Borgoyari @ Jeba) was arrested in a joint operation of NIA, Kokrajhar Police & CRPF on 17/12/2015. Investigation against A-11, A-12 & A-13 was completed and a Supplementary Charge sheet was submitted in this Hon'ble Court on the 14th of March 2016 by NIA. Meanwhile it was gathered that A-16, had surrendered before Ld. CJM, Udalguri on 04/02/16 in connection with Udalguri Ld. CJM Court GR Case No. 32/12 u/s 364/302/201/34 IPC. Accordingly, a Production Warrant was obtained and the accused was produced before Hon'ble Spl. Judge NIA, Guwahati on 18/02/16 by Udalguri District Jail authority. Subsequently, the accused was shown arrested in the instant Case and charge sheeted on 10.08.2016. Since the investigation against the remaining absconding accused persons was to be continued and additional evidences against Charge sheeted accused required to be collected, the permission so required was obtained from the Hon'ble Court u/s 173 (8) of CrPC for further investigation.

17.4 During further interrogation of arrested accused persons and the witnesses, the names of accused **Bidai (A-14)**, **Batha (A-15)**, **Sangkhong Basumatary (A-19)** and **Swadwb Brahma (A-20)** along with other accused persons who are now either dead or absconding surfaced. Their names appeared when additional statements were recorded during the course of this investigation. Accordingly, efforts were made together evidence against them and

apprehend them. To apprehend the above mentioned accused, several surprise visits and searches were made in the houses/known hide outs of accused persons based upon the intelligence collected from time to time.

17.5 Due to these efforts, information started coming about absconding accused persons which was not found adequate enough for their apprehension, moreover their locations were found to be in operationally inaccessible places like Manas Reserve Forest and territories under jurisdiction of adjacent country (Bhutan). Intelligence reports frequently suggested presence of Bidai (A-14) and Batha (A-15) alongside Indo-Bhutan boundary. However, during this, a report was received that absconder Sangkhang Basumatary (A-19) has been arrested by Kokrajhar Police in case no. 22/2017 registered at P/S Serfanguri. Accordingly, a Production Warrant was obtained and the accused was produced before Hon'ble Spl. Judge NIA, Guwahati on 08/08/17 by Kokrajhar District Jail authority. Subsequently, the accused has been shown arrested in the instant Case and initially remanded in Police custody for 03 days and subsequently sent to Central Jail Guwahati in Judicial Custody.

17.6 Involvement of Sangkhang (A-19): During Custodial Interrogation, accused Sangkhang (A-19) disclosed his involvement in killing of civilians in Pakriguri village. In his disclosure before the NIA team, he admitted that he is an active member of NDFB(S). He joined NDFB(S), in the year 2012 and accordingly got trained in 39th batch at Myanmar based NDFB(S) training camp. After completion of training, he joined Kokrajhar Platoon under the command of B. Jwblang (DA-1), just 2 or 3 days prior to Pakriguri massacre. The identity of the arrested accused i.e. Sangkhang (A-19) has been further confirmed by XXXXXXXXXXXX and XXXXXXXXXXXX, who in their initial statement stated that the accused was part of the squad that visited XXXXXXXXXXXX village before and after the Pakriguri incident, which took place on 23.12.2014.

17.7 Investigation has established the course of events that led to the massacre at Pakriguri. During the interrogation it was revealed by Sangkhang (A-19) that before the commission of crime at Pakriguri he along with some other NDFB(S) cadres use to stay at the house of one XXXXXXXXXXXX at village - Prem Nagar (Rabhapara) along with co-accused Jeba Basumatary (A-13),

(the same has been corroborated from the statements of XXXXXXXXXXXX (PW- 127) and XXXXXXXXXXXX (PW- 126). In their statement credible witnesses mentioned above deposed that the accused person Sangkhang Basumatary (A-19) along with co-accused Jeba Basumatary (A-13) and one XXXXXXXXXXXX stayed at their house for 04-05 days, not too long before Pakriguri incident. Witnesses deposed that these cadres use to carry sophisticated firearms.

17.8 Other credible witnesses also disclosed that Sangkhang Basumatary(A-19), along with other co-accused also assembled at another house at XXXXXXXXXXXX to prepare for massacre just before it was to be executed. This fact is substantiated by statement given by XXXXXXXXXXXX (he identified A-19 not by name but identified his picture as one of the cadre, this photo identification was conducted before an Executive Magistrate at Kokrajhar). XXXXXXXXXXXX and XXXXXXXXXXXX have clearly said that the accused Sangkhang Basumatary (A-19) occasionally visited the house at XXXXXXXXXXXX village to have food with other co-accused from the squad. The XXXXXXXXXXXX narrated that accused Sangkhang Basumatary (A-19) along with others carried sophisticated weapons and on the date of incident i.e. 23.12.2014 came along with other co-accused persons at that house at XXXXXXXXXXXX at around 11 AM or so and had food at about 12 noon. After having food, accused Sangkhang Basumatary (A-19) along with other co-accused relaxed at that house and at around 5 PM or so left towards the western side (at the side of Pakriguri), with their weapons.

17.9 XXXXXXXXXXXX further deposed that after the incident at Pakriguri village A-19, A-20 and other members of the squad rushed into a house at XXXXXXXXXXXX where they hurriedly had food and left without wasting any further time. On 24.12.2014 i.e. on the very next morning of the incident, A-19, A-20 along with the group again came back to that house at XXXXXXXXXXXX village, had food and left for jungle and never came back. XXXXXXXXXXXX in his statement stated that *“he/she personally knows the accused Sangkhang Basumatary (A-19) and has seen him along with the group coming to that house at XXXXXXXXXXXX for having food”*. XXXXXXXXXXXX further stated that *“he/she saw the same group resorted to indiscriminate firing at Pakriguri village”*. This is a credible eye-witness

account which has been recorded under due process of Section 164, Criminal Procedure Code. The operative part of the statement of XXXXXXXXXXXX reads as, *“After the incident of firing, the police and army came and visited the place of occurrence. After the firing, the NDFB extremists fled away from the place of occurrence. The firing was done by a group of 15/16 persons and amongst them I could recognize the involvement of Jwblang, Mithinga, Ganda, Khwrai, Bilai, Ladai, Khonasang, Jongsrang, Sibiyari & Sangkhang”*. The investigation placed due credence and reliance upon this description based upon two criteria, one the witness has been a victim of this violence and she/he was an eye-witness of this gruesome act and remembers it vividly.

17.10 Investigation has established that Sangkhang Basumatary (A-19) along with other accused persons stayed at a house at village XXXXXXXXXXXX, PO-2 No. Aithiabari, PS Serfanguri on the intervening night of 22nd and 23rd December 2014 and thereafter left for XXXXXXXXXXXX village in the morning of 23rd December. After the incident at Pakriguri village on 23.12.2014, he along with others again went to the house at village XXXXXXXXXXXX and made night halt there. In the morning of 24.12.2014, the accused Sangkhang Basumatary (A-19) along with other squad mates cleaned their weapons at this house and left towards XXXXXXXXXXXX. These facts were also further corroborated from the statements given by XXXXXXXXXXXX and XXXXXXXXXXXX. Participation of accused Sangkhang Basumatary(A-19) in the whole episode is further substantiated by the confessional statement given by accused Sibiyari (A-16). There is very high congruence between statements of XXXXXXXXXXXX and confessional statement of Sibiyari about the sequence of events prior and post Pakriguri incident and identity of persons involved in it. This congruence leaves no doubt that it was a well thought out strategy for which sophisticated arms were used and massacre was committed by ‘Serfanguri Platoon’ of NDFB(S) of which A-19 was a participating member.

17.11 Investigation has also established that Sangkhang Basumatary (A-19) who participated in the massacre and later arrested is the same person who was identified by XXXXXXXXXXXX during a Photo Identification done by Executive Magistrate, Kokrajhar. The statements have confirmed the fact that

Sangkhang Basumatary (A-19) is a hard core terrorist and member of proscribed terrorist group NDFB(S). This fact is further substantiated by the List of NDFB(S) cadres with photographs of Kokrajhar district obtained from the office of Superintendent of Police, Kokrajhar (D-156). Aforesaid statements of XXXXXXXXXXXX coupled with Confessional Statement of accused Sibiyari (which was duly recorded before a judicial magistrate as per law) makes clear the sequence of events leading to the massacre and involvement of Sangkhang (A-19). The identification was done by XXXXXXXXXXXX that the accused Sangkhang Basumatary (A-19) Shailendra Basumatary @ Saolen is the same person.

17.12 Involvement of Bidai (A-14) During investigation, the fact surfaced that accused **Bidai @ Bishnu Goyari**(A-14) is an active member and senior leader of NDFB(S) and at the time of the incident was heading the banned Outfit in the capacity of SS “*Military Chief*”. It has been gathered that he has now styled himself as “*Vice President*” of the Organization. The accused being the member of NDFB(S) and chief of Military has been identified XXXXXXXXXXXX by XXXXXXXXXXXX during photo identification held on 24.11.2015 before Asstt. Commissioner Kokrajhar (Executive Magistrate). Beside this, the list of active NDFB(S) cadres obtained from Kokrajhar police (placed as XXXXXXXXXXXX) also mentions the name of G. Bidai (A-14).

- The investigation establishes that Bidai (A-14) and his deputy Batha (A-15) under their leadership, held a meeting at village No. 1 Shantipara (Khongring) Runikhata, in the morning hrs. on 23rd December, 2014, (same day of the massacre) which was attended by XXXXXXXXXXXX more than 30 others of the same proscribed organization. In that meeting, Bidai (A-14) directed every one, present there, to kill as many XXXXXXXXXXXX as possible in the BTAD area, including Kokrajhar area. The reason given for such act was that *the XXXXXXXXXXXX people were against XXXXXXXXXXXX and were helping local police in killing members of NDFB(S).*
- Later investigation has also substantiated the motive for attack over XXXXXXXXXXXX from intercepted communication between Batha

(A-15) and Jwblang (DA-1) in which Batha clearly says, “*Apart from the fact the XXXXXXXXXXXX dead body has not been handed over, we had intelligence that XXXXXXXXXXXX people were planning and aiding security forces against the XXXXXXXXXXXX people. We got to act in advance so we carried out the attack.*”. Bidai (A-14) instructed to his Deputy "Batha" to get his order executed by the field formations. The stated fact is corroborated from the statement given by XXXXXXXXXXXX. Vigorous efforts were made by means of conducting surprise raids at his house and other possible known hideouts, to arrest the absconding accused person, but he continued to abscond despite all our efforts. A Notice u/s 41 (A) CrPC XXXXXXXXXXXX was served to him through his family members.

- Investigation has established that Bidai (A-14) and Batha (A-15) were the masterminds behind this ghastly act of massacre. It is clear from the statement of XXXXXXXXXXXX that these killings were done with a pre-meditated mind of ethnic-cleansing and spreading terror so that XXXXXXXXXXXX area could be cleansed of XXXXXXXXXXXX people, especially that of XXXXXXXXXXXX. As the notices were lawfully served following due process, the absconding accused A-14 was given ample opportunity to aid the investigation and answer the accusations against him either personally or through his counsel. However, despite the best efforts of the investigators the accused A-14 is still evading the process of law and have become a wanted fugitive.

17.13 Involvement of Batha (A-15): XXXXXXXXXXXX statement also makes clear that Batha (A-15) as a senior commanding leader of his terror outfit NDFB(S) was also leading the conspiracy to commit act of terror on XXXXXXXXXXXX. He was present in the same meeting and as SS ‘Deputy Military Chief’ also seconded his ‘Chief of Army’ Bidai's (A-14) directions. Investigation has established that accused Batha was present at the meeting held at village No. 1 Shantipara (Khongring) Runikhata, in the morning hrs. on 23/12/2014, which was attended by more than 30 members of NDFB(S) and chaired by G. Bidai (A-15). He acted as 2nd in Command at that meeting and further emphasized the group members to execute the orders of killing

the XXXXXXXXXXXX people in BTAD area, including Kokrajhar, given by G. Bidai (A-14). Moreover, the fact about what transpired between the leaders Bidai and Batha and others when they discussed the issue about general massacre of XXXXXXXXXXXX is described in the statement of XXXXXXXXXXXX.

17.14 Incriminating Conversations between Batha (A-15) and his 'field commanders':

The investigation has established from the detailed examination of lawfully intercepted mobile communications (these were received from a sister agency through due process pertaining to lawful interception) between Batha (A-15) and other local NDFB(S) commanders that **Batha** (A-15) was closely and frequently monitoring the entire operation of killing the XXXXXXXXXXXX civilians and ensured that every field formation took active part and carried out the killings as directed by him and Bidai(A-14). This is substantiated from the intercepted calls between him, Mithinga (A-1) and Jwblang (DA-1).

- It has been established that Batha (A-15) directed Mithinga Mushahary (A-1) *“to make two or three group for maximum impact and not to wait for darkness as it is difficult to kill them (XXXXXXXXXX) at night”*. Batha (A-15), during his conversation with A-1 emphasized on *“getting the job done anyhow, if possible today (i.e. 23.12.2014) or tomorrow”*. The accused Batha (A-15) while his conversation with Jwblang (DA-1) was curious to know as to *“how many people have been killed and whether any XXXXXXXXXXXX houses have been put to fire?”*.
- It is clear from the lawfully intercepted communications that accused Batha (A-15) wanted maximum casualty and wanted the massacre to continue even the next day. The accused has been evading arrest and other processes of law despite given all reasonable opportunities to cooperate in the investigation. A Notice u/s 41 (A) CrPC XXXXXXXXXXXX was served to him through his family members, however, despite the best

efforts made by local Police, NIA and other Security Agencies, the accused A-15 is still at large and evading arrest. As the notices were lawfully served following due process, the absconding accused A-15 was given ample opportunity to aid the investigation and answer the accusations against him either personally or through his counsel. Batha (A-15) is still evading the process of law and have become a wanted fugitive.

17.15 Following are the relevant conversations that were intercepted: these disclose the clear directions given by Batha (A-15) and coordination done by him with his field commanders like Jwblang (DA-1) and Mithinga (A-1). These reveal the precision and alacrity with which Batha (A-15) was directing his local units to take active part in massacre of XXXXXXXXXXXX (XXXXXXXXXXXX already submitted with CS).

Calling party/ Receiving Party	Contents of the incriminating conversation	Date	Time
Batha (A-15) to Jwblang (DA-1)	<i>“Thing is that you will have to act as directed. I have sent the message and want you to act accordingly. You will have to kill everyone from infant to old.”</i>	23/12/2014	15:46:42
Batha (A-15) to Jwblang (DA-1)	<i>“Make a team of two and act for maximum impact”.</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“What is the news?”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“He has got the job done”</i>		
Batha (A-15)	<i>“Where did he do it?”</i>	23/12/2014	19:22:04

to Jwblang (DA-1)			
Jwblang (DA-1) to Batha (A-15)	<i>“There were security forces all around so, they had to go south.”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“How many attacks could they make?”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“We had to go just as one team as there were security forces all around. However we to were adamant and got our job done.”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“Did you do in GOIJA”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“We did not go to that place but went to PAKRIGURI instead”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“How many did they kill in there? Did you burn the houses?”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“No we couldn't. ARMY moved up as soon as I talked to you, they might have taped the conversation.”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“It has been brought to our notice that people in SARALPARA (ADIVASISs) are gathering to retaliate, we will have to get our boys together?”</i>	24/12/2014	08:48:58
Jwblang (DA-1) to Batha (A-15)	<i>“We are ready for it.”</i>		

Batha (A-15) to Jwblang (DA-1)	<i>“If they (security forces) keep on searching the area they will have to carry out few more such attacks. Have they taken away all the dead?”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“How many dead they have announced?”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“May be 18 died. But I have fired upon the houses.”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“Make it a point that people (ADIVASIS) leave the forest area from now.”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“What is the news from the west?”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“MWDAN replied that they couldn’t act as security forces were all over the place.”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“I got the JOB done and now I am being searched from all the side.”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“ULTAPANI is also in your PLATOON, so liabilities will be more on you.”</i>		
Jwblang (DA-1) to Batha (A-15)	<i>“How many died in ULTAPANI?”</i>		
Batha (A-15) to Jwblang (DA-1)	<i>“I did not get the exact report but about 30 died it seem.”</i>		
Batha (A-15)	<i>“Apart from the fact the</i>		

to Jwblang (DA-1)	<i>LAIFANG's dead body has not been handed over, we had intelligence that ADIVASI people were planning and aiding security forces against the BODO people. We got to act in advance so we carried out the attack.</i>		
Batha (A-15) to Jwblang (DA-1)	<i>"If possible go to the HIGHWAY and start shooting at vehicles."</i>	24/12/2014	11:26:36
Jwblang (DA-1) to Batha (A-15)	<i>"Ok I will look into the matter."</i>		
Batha (A-15) to Mithinga (A-1)	<i>"Yea, I got it. You just start implementing as directed."</i>	23/12/2014	15:49:07
Mithinga (A-1) to Batha (A-15)	<i>OK</i>		
Batha (A-15) to Mithinga (A-1)	<i>"Make two or three groups for maximum impact."</i>		
Batha (A-15) to Mithinga (A-1)	<i>"Don't wait for the darkness; it is very difficult for you to kill them in night. Go ahead now itself and start killing."</i>		
Batha (A-15) to Mithinga (A-1)	<i>"Did you have the job done (killing of ADIVASIS)?"</i>	23/12/2014	16:48:15
Mithinga (A-1) to Batha (A-15)	<i>"No not yet Sir, they (security forces) are swarming the area."</i>		

Batha (A-15) to Mithinga (A-1)	<i>“Do something and get the job done anyhow.”</i>		
Mithinga (A-1) to Batha (A-15)	<i>“Yes sir, we are walking and looking for the place.”</i>		
Batha (A-15) to Mithinga (A-1)	<i>“Is it ARMY?”</i>		
Mithinga (A-1) to Batha (A-15)	<i>“We are trying to avoid them and going somewhere else.”</i>		
Batha (A-15) to Mithinga (A-1)	<i>“Make it a point that you get it done anyhow, if not today see for tomorrow.”</i>		
Mithinga (DA-1) to Batha (A-15)	<i>“We will get it done anyhow today.”</i>		
Batha (A-15) to Mithinga (A-1)	<i>“What is news from your side?”</i>	24/12/2014	17:27:14
Mithinga (A-1) to Batha (A-15)	<i>“We are in the middle of JOB (killing of ADIVASIS). We got some URAO and SAOTHALS houses.”</i>		
Batha (A-15) to Mithinga (A-1)	<i>“Were there people in there?”</i>		
Mithinga (A-1) to Batha (A-15)	<i>“Did have some, we stood by and instructed PUBLICS to burn the houses. However I heard the ARMY is assisting ADIVASIS in burning down BODO houses in MOINAGURI”.</i>		

Batha (A-15) to Mithinga (A-1)	<i>“Clear all these villages by tomorrow, but avoid any contact with ARMY”.</i>		
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17.16 Involvement of Swadwb Brahma (A-20): During the course of investigation, name of another accused person namely **Swadwb Brahma (A-20)** also surfaced. His name appeared, as an accused, during the interrogation of arrested accused persons. The accused Swadwb (A-20) used to visit XXXXXXXXXXXX village along with other co-accused and had food in a house at XXXXXXXXXXXX. On the 22.12.2014, he along with other cadres stayed at a house at XXXXXXXXXXXX village. On 23.12.2014, they left for XXXXXXXXXXXX village and had food in same house where they used to visit on a regular basis. In the meantime, they received instruction from senior leader Batha (A-15) over phone for killing XXXXXXXXXXXX. The accused Swadwb Brahma (A-20) and other members under the command of Mithinga (A-1) and Jwblang (DA-1) entered into the conspiracy and discussed to kill XXXXXXXXXXXX people at Pakriguri village. The statements have revealed that they checked their weapons and moved for Pakriguri village at around 5 PM which confirms pre-meditation. These sequence of events have been revealed from the statements of XXXXXXXXXXXX. He is trained cadre and active member of proscribed terrorist group NDFB(S). The fact is established by List of NDFB(S) cadres with photographs of Kokrajhar district obtained from the office of Superintendent of Police, Kokrajhar. He has undergone arms training in Myanmar based training camp in the year 2011.

17.17 He was posted at Serfanguri Platoon under the command of Jwblang (DA-1) and Mithinga (A-1), located at XXXXXXXXXXXX village under Serfanguri Police Station. On the day of incident i.e. 23/12/2014, he was with the group of Mithinga (A-1) and others in a house at XXXXXXXXXXXX village on the intervening night of 22nd and 23rd of December 2014. The stated facts are corroborated from the statement given by XXXXXXXXXXXX also. In the morning, he along with the whole group had meal at XXXXXXXXXXXX.

After having meals, he along with others moved to Pakriguri and participated in massacre along with others. He was carrying AK-47 with ammunitions while participating in the incident at Pakriguri. He too resorted to fire indiscriminately along with others. Efforts were constantly made to trace out the accused and apprehend him, but he continued to evade arrest. He is still an absconder.

17.18 Conclusion: Investigation has resulted in factual confirmation, by way of credible evidence, that accused persons A-19 and A-20 were involved in the conspiracy to kill and maim innocent civilians at Pakriguri village of Kokrajhar, on the commands given by A-14 and A-15. The fact that A-14 and A-15 commanded the field formation (of which ‘Serfanguri Platoon’ was also the one) to commit massacre has also been substantiated by credible evidence discussed above. They wilfully took part in formation of conspiracy and executed the conspiracy by executing a premeditated massacre. By being a trained cadre of a proscribed terrorist organization and by executing a massacre by use of sophisticated weaponry they committed offences that are discussed above and listed below and for which credible evidence has been adduced in this investigation.

17.19 Further investigation with respect of accused A-17 and A-21 is continuing. Since the incident occurred they have been evading arrest and still absconding. Sincere and vigorous efforts are underway to bring these accused to justice to prosecute them under appropriate sections of law permission may kindly be granted to continue the investigation as per the provisions contained in Section 173(8) of the Criminal Procedure Code.

18. Charge: -

Sl.	Accused	CHARGE(S)
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No.		
1	Sangkhang Basumatary @ Saolen @ Shailendra Basumatary (A-19)	<ul style="list-style-type: none"> • Sections 34, 120(B), 121, 121 (A), 302,307,326 of the Indian Penal Code. • Sections 16 (1) (a), 18 & 20 of the Unlawful Activities (Prevention) Act 1967.
2	G. Bidai @ BishnuGoyari @ HarengaGoyari(A-14)	<ul style="list-style-type: none"> • Sections 34, 120(B), 121, 121 (A), 302, 307, 326 of the Indian Penal Code. • Sections 16 (1) (a), 18,& 20 of the Unlawful Activities (Prevention) Act 1967.
3	BinodMushahary@ M Biban @ Batha(A-15)	<ul style="list-style-type: none"> • Sections 34, 120(B), 121, 121 (A), 302, 307, 326 of the Indian Penal Code. • Sections16 (1) (a), 18& 20 of the Unlawful Activities (Prevention) Act 1967.
4	Swadwb Brahma @ SwmdwnRava(A-20)	<ul style="list-style-type: none"> • Sections 34, 120(B), 121, 121 (A), 302,307,326 of the Indian Penal Code. • Sections 16 (1) (a), 18 & 20 of the Unlawful Activities (Prevention) Act 1967.

18.1 The sanction for prosecution under section 45(1) (ii) of the Unlawful activities (Prevention) Act, 1967 as amended and Under Section 196 CrPC has been obtained from the competent authority and enclosed.

18.2 All the aforesaid offences have been committed within the jurisdiction of this Hon'ble Court. Hence, this Hon'ble Court has jurisdiction to try offences as mentioned above.

18.3 It is therefore, prayed that this Hon'ble court may be pleased to issue processes against the accused for appearance and stand trial in accordance with law as per the evidences adduced against them. This CIO may also be allowed to furnish any additional evidences if gathered during further course of investigation.

19. **Dispatched on:** 2nd of February, 2018.

20. **No. of enclosures :** XXXXXXXXXXXX.

21. **List of enclosures:**

- XXXXXXXXXXXX
- XXXXXXXXXXXX
- XXXXXXXXXXXX

Submitted by:

Dated :- 02.02.2018

(XXXXXXXXXXXX)
SUPERINTENDENT OF POLICE,
CHIEF INVESTIGATION OFFICER,
CASE NO: RC-01/2015/NIA-GUW.
NIA, BRANCH OFFICE GUWAHATI.