

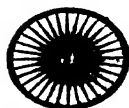
THE MURDER OF THE MAHATMA

*And Other Cases from
a Judge's Notebook*

G. D. KHOSLA

Formerly Chief Justice of the Punjab

With a Foreword by Lord Evershed



**JAICO PRESS PVT. LTD.
BOMBAY**

by G. D. KHOSLA, 1959

**The Murder of the Mahatma and other
Cases from a Judge's notebook**

Complete & unabridged

**Reprinted in India by
P. V. Rajan
R.M.D.C. Press Pvt. Ltd.
70/71 Worli Estate
Worli, Bombay-400 018.**

**Published in India by
Ashwin J. Shah
Jaico Press Pvt. Ltd.
121-125 Mahatma Gandhi Road
Bombay-400 023**

To

KHUSHWANT SINGH

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FOREWORD

By The Rt. Hon. The Lord Evershed, P.C.

I AM proud indeed to have been invited to contribute a foreword to this volume written from the record of his judicial experience by a distinguished Indian judge, until recently Chief Justice of the Punjab. I can feel no doubt that the book will very greatly appeal to English readers who will agree with me in admiring not only the style and language, in which it is written but also the skill with which the author has selected the subjects of his ten chapters. These subjects are delightfully varied in their nature and circumstances but are equally of arresting interest, so that (if I may judge from my own experience) the reader will in each case await the final **denouement** with no less excitement than that experienced in reading the best type of detective story.

My pleasure in contributing this foreword is enhanced by the fact that I share with the author membership of Lincoln's Inn, which I shall be excused for regarding not only as the senior but as the most respectable of those great English institutions, the Inns of Court.

Having taken a degree at Cambridge University in mathematics and after his call to the English Bar the author returned to India and for many years served as Magistrate, Civil Judge and District and Sessions Judge in various places. In 1944 he was appointed a Justice of the High Court of Punjab, being promoted to the office of Chief Justice in 1959.

It is from the last of ten chapters of the book that its title is taken; and to the English reader that chapter must be of particular interest because of its close connection with the assassination of Mahatma Gandhi. In the course of the chapter the author tells of his experience when he called upon the Mahatma and sought his advice in regard to certain of the grave problems which afflicted India as the result of the severance of Pakistan therefrom. On that occasion the author states his conclusion that Mr. Gandhi had 'one passion, one source of strength within him, and that was a deep and pervading feeling of love. He loved Hindus and Muslims, Sikhs and Christians alike.' There is here indeed an obvious nearness to the second great Christian commandment, 'Thou shalt love thy neighbour as thyself': and I cannot doubt that the good relations which have happily subsisted between this country and India since Indian independence owe much to this aspect of Mahatma Gandhi's teaching and influence.

I do not doubt that the reader will be no less fascinated by the author's treatment in the first of his chapters of the question that many people must often wish to ask of a responsible judge: 'What are your feelings when you are called upon in the exercise of your duty to pronounce sentence of death?' Of the remaining chapters I daresay that many readers will share with me the fascination of the astonishing story told in Chapter Six and called the 'Imperfect Alibi'.

The book brings out also some of the special problems which have been presented to those responsible for the administration of justice in India and which deserve careful thought by Englishmen. To one problem I have already referred—that which arose from the separation of Pakistan and India and the terribly distressing circumstances which that separation

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brought about, particularly in the Punjab. The distribution of the population in that part of India in villages often dominated by families or sections, acutely jealous rivals of each other, is shown very greatly to have added to the difficulties of the hard-worked police when called upon to investigate crimes and, in the course of such duties, to collect independent and reliable evidence—difficulties which the author shows have not unnaturally, if regrettably, sometimes tempted the police when satisfied that they have found the guilty party to improve upon what might appear to be the colourless and unconvincing case of the prosecution. In these respects we in this country may indeed be regarded as fortunate as we are also fortunate in regard to the great skill and thoroughness of the medical evidence rendered available to English courts.

The reader may also be struck, as I was, by the frequent recurrence of the same names though attached of course to wholly different persons. Thus the name Mohinder Singh occurs in three of the chapters and that of Hakim Khan as belonging both to an accessory to a murder and also to one of the victims. They may perhaps be likened to our own Nation's Wealth of Smiths.

In his last chapter Mr. Khosla raises a controversial question with which I was personally concerned following the visit to this country in 1961 of the representatives of the American Institute of Judicial Administration to investigate, with representatives of the English legal profession, the problem of appellate work—namely, the question whether and to what extent a judge should read the papers and acquaint himself with the facts of a particular case before it comes before him for hearing. There is no doubt and understandably in this country and particularly among

members of the Bar a feeling that a judge who has so acquainted himself with the facts of a case is liable to come into Court with his mind substantially prejudiced on one side or the other—as undoubtedly was the fact in the case described by the author in the last chapter of this book. This is plainly not the occasion for me to enter the lists upon such a matter. I do, however, venture to make the point that the opposition to any reading by a judge of the papers in a case before he tries it may be overstated. If the argument in its extreme form were well founded it would surely mean that in any appeal the appellant would inevitably win. A judge who knows his job should, I claim, be able to acquaint himself sufficiently with such matters as the pleadings in the case, the terms of any judgment under appeal, and the like, in order to save an appreciable amount of the time taken in Court and therefore an appreciable amount of the costs incurred which one or other of the parties under our system will eventually have to pay; and should be able so to do without risk of any closing of his mind to the arguments which will be presented to him.

But, above and beyond any of the matters to which I have alluded, one consideration emerges uppermost from a reading of this book which is of the greatest importance, and which should bring a sense of pride to all English readers, namely, the fact that in this great country of India our English system of law and our English way of administering justice are maintained and revered as being the best adapted for realising the essential requirements of a free people. I had recently the privilege of being invited to sit in Delhi with the Justices of the Supreme Court of India, and I was indeed greatly moved by the evident belief which the Indian people have in our English law. I venture

indeed to think that it is one of the strongest links that binds India to our Commonwealth and, for the future peace and happiness of mankind, may it long continue! We must therefore be highly grateful to the author of this book for the striking illustration it affords of this great truth. I commend it accordingly with warm good wishes to English readers.

ONE

A HANGING AND A CASE OF ARSON

IF AM often asked the question: 'What do you feel when you sentence a man to death?' I have not yet found a satisfactory reply which would accurately sum up in a brief sentence or two the information required. And when my interlocutor adds knowingly: 'I expect you have become quite callous by now', it becomes still more difficult to find the appropriate answer. To say that a judge only administers the law of the land and that it is no part of his duty to criticise, alter or amend what the people's elected representatives have, in their wisdom, chosen to lay down, is only evading the issue. Nor is it relevant to strike a defensive attitude by pointing out that the condemned man has taken an innocent life and he must, therefore, expiate his crime in a suitable manner. A tooth for a tooth and a life for a life is not the way of humane and civilised people. There are, of course, the usual stock answers: Capital punishment acts as a deterrent; The sort of person who kills holds life cheap, and does not really mind being sentenced to death; Have you heard the story of the shipwrecked mariners who were washed ashore on an unknown island and sighted with relief on seeing a gibbet, because they realised, at once, that they were among civilised people subject to the rule of justice; Well, one has to do one's duty; A murderer evokes scant sympathy and judges are as human as anyone else; One learns to develop an im-

personal attitude while administering justice, and really I don't think that I feel anything at all.

I have often given these answers and others equally incomplete and unsatisfying. Stock phrases of this kind leave so much unsaid that often a false impression is gained by the questioner; besides, they induce a sense of dissatisfaction in me. What I should like to say is much more involved and complex than can be stated over a cup of tea or in the course of an after-dinner conversation. I should like to describe the various forms of psychological reactions which a murder trial provokes and illustrate my argument with specific instances. For example, I should like to relate the story of the man who was found guilty of murdering his aged mother in order to steal her money. When I passed the sentence of death upon him, he stood up and, with folded hands, thanked me, saying: 'You have done justice. I deserve to die, for I spilled the blood of one who gave birth to me.' I felt pity for the wretched man, but at the same time there was a sense of smug satisfaction, of self-righteous gratification that my decision had been accepted without demur. The first time I ordered a person to be hanged by the neck till dead, I felt a certain nervousness, a slight fear that what I was doing might well be wrong and unjust, the man might not be really guilty, for witnesses often lie, and can a judge be completely certain that his verdict is correct? I consoled myself with the thought that my judgment would be examined by the appellate court, and if there were any error it would be set right. Then there was the man who stood in the dock with a look of defiant contempt on his face, and treated the entire proceedings as if they were some sort of silly game with which he had very little concern. He had been charged with killing his wife and his infant son in a fit of temper, because

the son kept on wailing ceaselessly and the wife could not quieten him. He remained for a whole day standing in the dock with his head thrown back and his lip curled up at one corner, a strong, tall and almost handsome figure of a man; and when judgment was pronounced, he gave a quick supercilious jerk of his turbaned head and walked out of the court-room without saying a word. The jingling of his handcuffs and the rattle of the chain held by the police constable who led him out gave me a feeling of complete helplessness. Here was a man to whom the instrument of justice meant nothing at all. The sentence of death was being passed not on him, but on the whole sorry scheme which permitted a fine piece of humanity like him to be destroyed merely because he had dealt with what belonged to him in the way he had every right to do. There was, for him, no question of repentance or retribution. He just could not come to terms with the iniquity of the whole business, and the only thing to do was to maintain a dignified exterior and show his contempt for the entire proceedings. There was no real evil in the man, and he could perhaps have been made into a very useful citizen. It was depressing to see that in the prime of his life he had to pay the extreme penalty which society demands from a man who shows so little respect for man-made conventions. But with his complete lack of restraint and his inordinate strength of body I wonder how many more lives would have had to be sacrificed before his reformation could be completed.

The man who killed his victim by introducing the germs of bubonic plague into his body by means of a hypodermic syringe on the crowded platform of a railway station seemed to have walked right out of a detective novel. Despite the indignation aroused by his act, one cannot help entertaining a small measure

of admiration for the ingenuity of his plan and the industry with which he carried it out. There will not be wanting persons who would rather that he had not been hanged. Some murders arouse so much horror and abhorrence that the painless brief punishment of hanging seems much too lenient a way of dealing with the villains who perpetrate them. The man who murdered a defenceless woman travelling alone in a railway compartment for the sake of her paltry belongings, the man who poisoned a close friend after taking out a big insurance policy on his life in his own favour, the man who removes an entire rail from the permanent way at a spot where the line passes near the edge of a steep cliff in order to bring about the death of innocent persons who have done him no harm at all, the man who joins a band of armed robbers and commits dacoity with murder, are all players in a game in which the stakes have been declared in unequivocal terms. It may be presumed that these men were ready to pay the price of the amusement or the material gain which they hoped to derive from engaging in their vicious activity. But even in their case callous indifference and a self-righteous complacence are signs of a hardening process which must be counterbalanced by an effort to combine judicial objectivity with one's innate sympathy and sensitiveness. I was brought up against this problem at a very early stage in my judicial career and the incident left a lasting impression on my mind.

I remember vividly the whole sorry transaction. It was a bitterly cold morning in early February. There was frost on the grass outside and the air had a sharp penetrating sting that went through the shirt and played on the spine like the point of a cold needle. It was far too early to feel hungry for breakfast and the prospect of seeing a man hanged, though somewhat exciting,

had taken away whatever little appetite I had. As I sat nibbling at a piece of toast and sipping my coffee I, once again, went over the pages of the file which had been sent to me the previous day. There was not much to read, Kala Singh, son of Bishan Singh, 45, of Nathana had been found guilty of dacoity and murder and had been sentenced to death. The appeal filed by him had been dismissed by the High Court of Judicature at Lahore. His application for leave to appeal to the Privy Council in London had been rejected. Two mercy petitions sent from gaol, one to the Governor of Punjab and the other to the Viceroy of India, had met the same fate and so Kala Singh was to be hanged by the neck till dead at 8 o'clock on that cold February morning. Departmental rules required the presence of a magistrate at the grim ritual and a certificate signed by him that the order of the court had been duly executed. The District Magistrate had entrusted the task to me. I arrived at the gaol gate so early that the Superintendent had to be called from his house. He chatted lightly about the weather, the condition of crops, the flourishing state of the gaol vegetable garden, the new lines he had introduced and the remarkable success he had achieved. The Governor of the Punjab Sir Malcolm Hailey (afterwards Baron Hailey), had complimented him on the quality of Brussels sprouts he had grown, and the French artichokes were every bit as good as the ones they served in the restaurants in Paris. I signed my name in the visitors' register and accompanied him through the huge barred gate which shut off the vestibule from the main courtyard of the gaol. This was the first time I had seen the inside of an Indian gaol, and though during the course of my judicial career I have had occasion to pay visits of inspection to almost all the district gaols in the province, this first impact stayed with me and coloured

every subsequent impression. Gaols which differed in shape, size and design from the Ferozepore Gaol seemed to have the same chill breath, the same sickly smell of disinfectant fluid and the same kitchen odours of soupy **dal** and semi-cooked chapattis—semi-cooked because over-cooking makes them lose weight and gaol chapattis have to be of a regulation weight.

The Superintendent led me to Kala Singh's cell. It was one of a row of six small cubicles in which condemned prisoners are confined after the sentence of death is passed on them. Each cell was about eight feet square. No furniture of any kind was provided. The inmate slept on the floor with a blanket underneath and a blanket over him to keep the cold and damp away. Light and air entered through a narrow, heavily barred grille-door. Four of the cells were occupied. We stopped in front of the second one while a warder fumbled with a bunch of massive keys. The door clanged open and we entered. Kala Singh sat cross-legged on his folded blanket and in front of him on the bare brick floor lay three empty plates. He had just finished eating a hearty meal of milk curds and ground rice pudding. The Superintendent informed me in a matter-of-fact tone that on the day of the execution the condemned man is served with whatever he asks for in the way of food.

Kala Singh had looked up as we entered and then resumed his original meditative pose. He seemed quite unconcerned with what was happening around him. Now and again his lips moved but no sound came from them. Suddenly the Superintendent began to speak, and so harsh and loud was his voice that it made me jump:

'Kala Singh, you were found guilty of dacoity with murder and sentenced to death by the Court of the Sessions Judge on [he mentioned a date]. The con-

viction and sentence awarded to you were affirmed by the High Court on [another date]. Your application to appeal to His Majesty in Council was dismissed on [yet another date]. Your petition for mercy was dismissed by the Governor and also by the Viceroy. So today at eight you are to be hanged. Have you anything to say?

Kala Singh was a small man, and during this monotonous recital he visibly shrank in size till he looked no more than a small dark blob on the deep grey blanket of coarse wool. Without looking up he answered:

'I didn't do it'. His voice was firm and free from any sort of fear or nervousness. 'I didn't take part in this dacoity and I didn't kill anyone.'

'This is hardly the time to protest your innocence, the Superintendent said, and he spoke in a soft, almost an apologetic tone. 'You should now make your peace with God and repeat the Wahguru's name.'

'I didn't do it,' Kala Singh repeated. 'I have committed other murders and I have been a dacoit, but this was a false case faked by the police.'

There was something in the way Kala Singh spoke that lent conviction to his words, and I asked myself if there were any means of averting the injustice to which I was becoming a party. The Superintendent must have noticed my discomfort, for he said: 'Sir, they often say that. We have to carry out the orders of the High Court. He was a notorious dacoit with several murders to his credit.' Turning to Kala Singh, he continued, 'Kala Singh, stand up.'

The small well-knit figure of Kala Singh was scarcely five feet four inches in height, and the warder had to bend down to pinion his arms and tie them behind his back with a stout rope. The operation was performed with dexterity in a surprisingly short time. Kala

Singh offered no resistance and stood firmly on his bare feet. I saw that beads of perspiration were forming on his forehead and beginning to trickle slowly down his nose and beard. A few fell on to the ground and made dark spots on the floor.

We stepped out of the cell and marched in silent procession to the gallows where the Civil Surgeon joined us. Kala Singh was made to stand in the centre of the two-piece wooden platform with a black chink running diagonally across it to mark the line of division. The hangman pulled down the rope and tested the noose. The loop slipped easily up and down with light movements of his hand, and the rope shivered like a snake suspended from its tail and raising its head to strike a deadly blow. The hangman picked up the bag of black cloth and moved towards Kala Singh.

'Wait a moment,' Kala Singh said. He was sweating profusely now, but showed no other sign of anything unusual or untoward. His voice was firm and empty of all emotion. 'Let me take the name of my God.'

The hangman withdrew his hand, and a faint incoherent mumble came from Kala Singh's lips. A moment later it ceased and Kala Singh braced himself to meet his Creator. The black bag was quickly thrown over his head and tied round the neck. The noose was lowered over the bag and pulled tight. The hangman stepped off the scaffold and took hold of the handle of the lever which operated the scaffold boards. I had not noticed the strange contraption till now, and as I looked at it, I wondered why the hangman was watching my face so intently.

The Superintendent then said: 'When you give the order, sir.'

I looked at my watch. It was four minutes to eight. The hanging was scheduled for 8 o'clock. Suddenly a horrible thought raced through my brain, crowding

everything else out of my field of awareness. How could I cut short anyone's life by even four minutes and deprive him of his lawful right to live till eight? I had read stories of last-minute reprieves and rescues. The man had declared his innocence in all sincerity and I had believed him. Was I committing murder under the cloak of judicial sanction? And yet how could I allow the man's soul to be tortured for whole four minutes merely to obey the letter of the law? The condemned man was ready to die. He had no watch and did not even know that he had still a few minutes more of life. But was this life? Standing there with his face drowned in the blackness of the death bag whose only purpose was to spare us the ugly spectacle of a strangled face with eyes bulging and tongue protruding, he must be experiencing death in life. The knot of the noose had been turned round to press against his left jaw as his position made for a quick break of the jugular vein. I imagined that his eyes were already beginning to bulge from their sockets and his tongue half-protruded out of his mouth. I do not remember saying anything or making any sign to the hangman, but suddenly I heard the harsh squeal of the metal lever and the loud groan of the heavy platform as it fell away in two solid flaps and hit the sides of the pit. At the same time the dark body of the condemned man plunged down and stopped with a sudden jerk. The limbs shivered in a quick convulsion and were still. The body now began to oscillate gently like a pendulum.

The Surgeon stepped down to the bottom of the pit, applied the business end of his stethoscope to Kala Singh's chest for the briefest of seconds and then almost ran back up the steps. He snatched the file from the Superintendent, signed the death certificate and passed the papers to me for my signature.

As I stepped out of the gaol door I found myself humming Gilbert's verses:

I heard one day a gentleman say
That criminals who are cut in two
Can hardly feel the fatal steel
And so are slain without much pain.

I remember very well that there was no sense of incongruity in my humming the song.

Not all condemned prisoners meet death with the stoic calm displayed by Kala Singh. Some of the bravest and the most desperate characters collapse and are unable to walk the few yards from the cell to the gallows. It is often found necessary to administer a mild opiate to them. Some become hysterical and weep and cry like children. On the other hand some of the revolutionaries and political agitators, who took part in crimes of violence, were almost hilarious and displayed a remarkable degree of readiness to pay the price of their crimes.

A fear which often assailed me during the period of my inexperience was the possibility of sentencing an innocent man to death. The capital punishment is so completely irrevocable and ruthless that I have always felt a certain measure of reluctance in imposing the extreme penalty. The law of India provides the alternative sentence of imprisonment for life for the offence of murder, and though formerly a judge, awarding the lesser sentence, had to give his reasons for not inflicting the death penalty, a recent amendment of the Code of Criminal Procedure relieves him of this obligation and he may, without assigning any reasons, award the lesser sentence.

My judicial experience of more than thirty-five years has taught me that a false case is an extremely rare

phenomenon, though not infrequently there is an admixture of false evidence introduced by the police to buttress what they fear is a weak case. The weakness of the case is more often imaginary than real. A police officer likes to send up a neat-looking case nicely tied up like a Christmas parcel without any holes or loose ends showing. This is not always possible. There may be no eye-witness of the occurrence, though the reckless disregard for consequences tempered by the hope of being able to evade the arm of the law (the nearest policeman may be as much as fifteen miles away) militates against secrecy, and most of the killing is done in broad daylight and within sight of people. Seventy per cent of Indians live in villages, and the vast majority of crimes of violence are committed in rural areas where loyalties are frank and undisguised. Everyone belongs unreservedly to one side or the other, and quite often there is a sharp sense of conflict between the various factions. So it is difficult to find an independent, unrelated witness whose testimony does not bear the taint of partisanship. Friends and relatives are always ready to support a case against a member of the opposite party once they are convinced that the case is a true one. But the danger that one or two innocent persons may have been added to the list of real culprits in order to pay off old scores is always present, and the judge has to be on his guard and keep a vigilant eye whenever there are more than two persons in the dock. The police are always anxious to see that a case over which so many pains have been taken should not fail, and often they do not scruple to introduce an element of falsehood in order to make the case foolproof. Faked recoveries of blood-stained weapons or clothes are not unknown; a witness may be commissioned to say that he saw the accused persons in the company of the deceased or leaving the

spot where the murder was committed immediately after the occurrence. I once heard the allegation that semen stains on a pair of women's trousers exhibited in a rape case came from a masturbating constable who wanted to win the favour of his superior officer. There are always persons willing to ingratiate themselves with the police, and what does it matter if they stretch a point and lend their assistance to furthering a praiseworthy cause, for the miscreants they are deposing against must be guilty—why else would the police prosecute them?

A great deal is said about the perjury committed in Indian courts. There is a saying: "Speak the truth, you are not standing in a Court of law", which is a devastating commentary on our judicial system. Policemen satisfy their conscience by telling themselves that even though the evidence in a case is not all it should be, the person being prosecuted is the real culprit. Magistrates and judges have only the evidence by which they can determine the guilt or innocence of the accused person. So a large number of cases fail and the percentage of convictions is alarmingly small. I feel that one important factor which contributes to the prevalence of perjury in this country is the lack of a solemn oath which would inspire an adequate measure of awe and fear in the mind of the deponent. Statements are usually made on solemn affirmation, and a non-Christian cannot be compelled to take an oath having a religious significance. An early experience of mine furnishes a good illustration of what I am postulating.

In 1929 I was a Sub-Divisional Magistrate in a district of Western Punjab where the *jirga* law is in force. The *jirga* is a council of elders to whom certain criminal cases are referred for trial. The procedure laid down is as follows. Whenever the police feel that

owing to family or factional loyalties or some other reason witnesses will not be prepared to give evidence against an offender, the case is laid before the magistrate for action under the **jirga** law. The magistrate reads the police diaries of the case and examines the attendant circumstances and if necessary makes such extra-judicial enquiry as he deems necessary and then either refers the case to the **jirga** or dismisses it. The **jirga** on receiving the reference makes an investigation into the matter and reports its finding to the magistrate, who then passes sentence on the offender if the verdict is 'guilty'.

The police asked for my intervention in a case of arson. A stack of wheat comprising the entire harvest of a farmer had been destroyed by fire, and though the culprits were known and had been seen setting fire to the wheat, the witnesses were somewhat 'shaky'. I asked the Sub-Inspector of Police who had investigated the case what exactly he meant by 'shaky'. Were they reluctant to appear in court or were they unworthy of credit? The Sub-Inspector assured me that the witnesses had, in fact, seen the culprits committing the crime, and their testimony could be relied upon. I said I would first hear the case in court in the ordinary way and if I felt the need for any extra-judicial enquiry I would consider the question of referring the matter to the **jirga**.

There were three eye-witnesses. One by one they appeared before me and stated, on solemn affirmation, that they had seen the prisoners walk up to the stack of wheat and set fire to it. The witnesses had been able to identify them by the light of the conflagration. One by one the witnesses were cross-examined. They admitted their relationship with the complainant and their enmity with the accused persons. Their statements about the details of the incident were far from

consistent and I was left in considerable doubt about the guilt of the accused. I adjourned the case and fixed the next hearing in the very village where the arson had taken place, directing all the witnesses to be present on the appointed day.

The civil rest-house in which I stayed lay in the centre of a sandy plain, a quarter of a mile from the village. As usual while on tour I had a great deal of administrative and revenue work to do and the place was crowded with people who had come on business and their relatives and friends. The arrival of an official from headquarters was, in those days, made the occasion for observing a holiday from work and turning the whole proceedings into a social and festive ceremony. In the morning I went round the village in the company of the headman and paid a visit to the spot where the heap of wheat had been burnt down. There was no visible trace of the crime and I saw that the threshing-floor where the harvested wheat had been stored was just a flat piece of ground open on all sides with nothing to obstruct the view or the approach of anyone.

I took up the case at noon, not judicially in open court, but informally in the privacy of my chamber with none of the court officials present. I had obtained a copy of the holy Koran and placed it on the table before me. The first eye-witness came in. I asked him to shut the door, and explained to him that I was not sitting as a court, but as the people's well-wisher who wanted to know the real truth about the matter, so that I could do justice between them. I pointed at the holy book and asked him to pick it up, take a solemn oath upon it and tell me exactly what he had seen.

The witness who stood before me was a man in his fifties with a silvery beard and a quiet dignity. He

picked up the Koran in silence, handling it gently with both his hands as if it were a piece of brittle and valuable glass. Slowly he raised it to his eyes and held it there in the traditional gesture indicative of reverence and solemnity. Then raising his eyes to the ceiling he said in a quiet but firm voice:

'Hazur, as God is my witness, I saw nothing at all. I was in my house in the village when the burning took place.'

The second witness was a young, illiterate yokel of nineteen or twenty. He entered the room with a clumsy gait, looking about him cautiously as if he expected to find a tiger behind the door. The moment I mentioned the Koran, a look of terror came over his whole person. He began to tremble violently and edge away from the table on which the holy book lay. He stammered almost incoherently:

'Na, hazur, I shan't touch the Koran.'

When I spoke to him somewhat sharply and reminded him of the evidence he had given before me only a few days earlier, he completely broke down and began to sob like a small child, repeating "I shan't touch the Koran, no, no, not the Koran, **hazur**.'

The last witness was a man in his early thirties. He had a sly, knowing look and had obviously heard about the Koran from the first witness who had no time to warn the young fellow. He listened quietly to what I said and nodded understanding. When I had explained my formula, he said **'Hazur'** and stepping forward picked up the holy book and held it before him. Then he recited in a monotone:

'I swear by the holy Koran that the accused [he named the three persons] set fire to our heap of wheat and reduced it to ashes. They are the real culprits.'

He replaced the book on the table and asked me if

he could go. This was far too obvious and I wasn't going to let him get away with it.

'Take up the book again,' I said in my best magisterial tone, 'and swear that you saw these men setting fire to the wheat.'

The witness was not willing to do this and merely repeated that the men were really guilty and what he was saying was the truth.

There was no alternative but to dismiss the case and decline to hand it over to the *jirga*.

Another somewhat similar incident happened a few years later in another district. Five persons were on their trial for the murder of a young man who had been attacked while sleeping inside a small room. In the next room slept his mother and aunt. The wall separating the two rooms had a small window not more than 2 ft. by 2 ft. in dimensions. It was winter time and the doors had been shut and chained from the inside. The assailants were alleged to have entered the small room by lifting one of the door-panels from its hinges. This was easy because most doors in the villages are attached to the framework not by iron hinges screwed into the woodwork but by means of a pin and socket arrangement which enables them to be pulled out by lifting the whole of one shutter an inch or two. The weapons attributed to the assailants were of different types—a dagger, a sword, a sickle and a hunting knife. The injuries found on the person of the deceased were similar in size and shape. They could have been inflicted with any one of these weapons, but there was nothing to contradict the hypothesis of different types of sharp-pointed instruments having been used. The contention on behalf of the defence was that only one or two persons had been responsible for the young man's death and the witnesses had implicated innocent persons along with the guilty

ones. And since you could not distinguish the case of one prisoner from that of another, all five were entitled to an acquittal. The case really depended on the extent to which the testimony of the mother and the aunt of the deceased could be relied upon. They said there was an oil-lamp burning in the room in which the deceased slept and they had seen the assault and recognised the culprits by looking through the window in the wall which lay between their room and the room of the deceased. The counsel for the defence was an experienced advocate of more than twenty years' standing. He was one of those determined, dogged and intrepid people who are not satisfied by half measures and pursue an objective to its very end no matter how hard the going may be. He began to cross-examine the mother of the deceased calmly, patiently, but with a persistence which showed quite unmistakably that he would stand no nonsense. He would have no evasive replies and pressed his point by repeating his question, changing its form, and if no satisfactory reply came, going on to another topic and coming back to his original question. The mother had been forced to admit that she did not hear the sound of the door being lifted. That showed, she said, there were several persons doing the job. 'I did not ask you the reason,' said the advocate with a trace of annoyance, 'I only asked you if you had heard any sound.' 'But I am telling you the reason,' the woman retorted. 'Should I not speak the truth in the court of justice?' The cross-examination proceeded. The woman had all the answers ready and showed not the slightest sign of being agitated or confused. Yes, she woke up on hearing the cry of her son when he received the first blow. She uncovered her face and saw the five prisoners standing by her son's bedside. From where she lay she could see quite clearly her son's bed, and by

the light of the oil-lamp she was able to identify all the assailants. Of course, she knew them. They belonged to the same village as she. Certainly there was enmity between them and her son; that is why they had murdered him, riddling him with wounds that drenched his bed-clothes and left a pool of blood on the floor. The advocate went on asking: Which of the assailants stood near the head of the charpoy and which near the foot; How many injuries were inflicted by each assailant; Who gave the first injury and who the second, third and so on; On what parts of the body were the various injuries inflicted; Did the assailants stand at one spot during the assault or did they move round; Who was facing the window and who had his back to it?

The witness had a ready answer for each question and threw her responses at the advocate with a fearless confidence which showed that she had the better of her adversary, but as the inquisition went on, the witness began to lose her patience and passed from the stage of self-possessed smartness to a defiant and most reckless disregard for circumspection and consistency till she was lured into making a statement contradictory of what she had said a few minutes earlier. The advocate at once seized his opportunity and with unconcealed triumph pointed out the discrepancy and asked for an explanation. The two statements were not wholly irreconcilable and related to an unimportant detail, but the witness had had enough of the advocate's waspish behaviour. She flared up and shouted at him:

'If your son had been hacked to death as mine was, you wouldn't stand there and go on asking silly questions.'

The advocate had won the battle; he paused for a telling moment, and looking straight into the face of the witness, lashed out in a voice that stung like a whip:

‘If my son had been hacked to death, I wouldn’t stand in the house of God’s justice and swear away the lives of innocent persons. Can you hold the Koran in your hand and tell the honourable judge that YOU SAW ALL THESE FIVE MEN attacking your son?’

The witness crumpled down like a pricked balloon and began to whine:

‘What if I didn’t see them; they are guilty, aren’t they?’

From then on the issue of the case was a foregone conclusion.

The Indian Oaths Act provides that no witness shall be compelled to take a religious oath, but a witness may volunteer to swear upon anything he holds sacred. In a civil suit one party may make an offer to be bound by an oath taken in a specified form by the other party. For instance if the defendant says, in a claim for a sum of money, that nothing whatever is due from him, the plaintiff may ask him whether he is prepared to hold a jug of the holy water of the river Ganges and swear that the claim is false. And if the defendant accept the challenge and take the oath in this form, the plaintiff’s suit must be dismissed. The device is, however, rarely resorted to, and in a case conducted according to the normal procedure no sanctity attaches to the solemn affirmation prescribed for witnesses giving evidence in a court of law. It is a highly unsatisfactory state of affairs and it does not seem possible to devise a formula which would inspire some measure of awe and solemnity without

giving offence to the religious sentiments of the non-Christians.

But it is scarcely correct to say that this attitude of mind stems from a callous disregard for truth even though the life of another person may depend on what is said. Witnesses often feel that they are telling the truth because what they say is true even if it is not true to their personal knowledge. Nevertheless a false witness gives false evidence and no court can act upon his testimony. It follows that a very large number of murderers and other criminals escape punishment. A true and convincing case becomes doubtful because some of the evidence is recognised to be false. A verdict of guilty is often reversed by the court of appeal, and the sieve of judicial scrutiny lets through only those cases about which no doubt at all can arise. There is only a sense of comfort that no innocent man has been hanged.

The murder stories narrated in the following pages have been chosen from my note-book as illustrations of an Indian judge's work and the impact which violent crime makes on his mind. In writing them I have perhaps found an answer to the question: What do you feel when you sentence a man to death?

TWO

FIRST INFORMATION REPORT

IN the autumn of 1931 I was placed in charge of the Sessions Division comprising the districts of Shahpur and Jhang, now part of West Pakistan. My permanent residence was at Sargodha, a small town which had assumed importance in 1914 when it was made the headquarters of Shahpur district, and I was expected to visit the neighbouring district of Jhang for a week each month to deal with the civil and criminal work of that district. It was an important and heavy charge. The eastern portion of Shahpur and most of Jhang district were canal-irrigated tracts and the newly acquired prosperity of the farmers had stimulated them to take up the usual spare-time activity of litigation. The western half of the district comprising the arid sandy area of ~~thal~~ and the rich mountainous tract of the Salt Range nurtured the hardy turbulent tribe of Awans and a sprinkling of Pathans who had come across the Indus river and settled down in a number of villages forming small, close communities of their own. The incidence of crime among these people was high, and their main recreation was breaking each other's heads and pursuing vendettas which, in some cases, had begun several generations ago. In the intervals between killings, assaults and abductions they lived peacefully, displayed a warm neighbourly feeling towards everyone,

and worked hard on the land, reaping a rich crop of wheat, cotton, sugar-cane and oranges.

My own work was heavy; and I had often to sit late in court and bring home a load of files in order to study the following day's cases and go through a sizeable heap of papers relating to administrative matters. But there were compensations. The house provided for my residence had countless bedrooms and we could accommodate half a dozen guests without feeling cramped; the grounds in which it stood stretched away on three sides in a series of lawns and flower-beds and at the back lay a kitchen-garden ample enough to provide vegetables for a small army contingent. The centre of the front lawn was dominated by a magnificent ~~shisham~~ tree under which we spent many a pleasant hour. Basking in the peaceful warmth of the winter sun on holidays while the bearer brought out jugfuls of fresh orange juice, or sitting in the coolth of the summer evenings drinking chilled beer and chatting to brother officers and their wives will always remain in the memory as slices of unforgettable delight. The oranges in particular stand out as a special feature of my Sargodha days. They were plentiful and cheap—a century of large juicy fruits cost only Rs. 1-8-0 (two shillings) and a century comprised a hundred and thirty-two. We used to send for a basketful from the fruit market and gorge ourselves with orange juice. We ate home-made marmalade and my wife tried her hand at bottling orange squash. We put in a dozen orange plants in our garden, and though we did not stay long enough to eat the fruit from our trees we had the satisfaction of knowing that my successors would think kindly of us each winter when the trees began yielding a rich crop of the luscious red and gold spheres.

Sometimes we drove out and picnicked at one of the rest-houses on the main canal which ran through the district. These were occasions of excitement followed by euphoric contentment. Or we went touring through the Soon Valley in the Salt Range and stayed for a day or two in delightful surroundings, where peach and apricot trees laden with delicious fruit provided a welcome change. Here, too, I saw growing the largest and the most luscious figs I have ever eaten. The fruit trees were imported from California by an enterprising British administrator and bore witness to his wisdom in recognising the suitability of soil and weather conditions prevailing in the Soon valley. The valley lies at an altitude of 2,500 feet and is part of the Salt Range which stretches across the north-east portion of the Shahpur district in a series of arid hills rising precipitously from a flat sandy plain. There are one or two salt-water lakes in the valley which nevertheless has an abundance of fresh subsoil water. A few fresh-water streams and wells provide the necessary irrigation for the rich soil which rears tall, healthy wheat and tall, healthy people. It was one of the major pleasures of life to walk through the fields of ripening corn reflecting the gold of the early summer sun and rustling softly to acknowledge the caresses of the cool breezes which are a regular feature of the valley. Tall, dark-skinned Apollos clad in diminutive loin-cloths, their muscles rippling with every movement of the body, appeared here and there like live statues of polished stone sculpted by a master craftsman. The Awan women are tall, svelte and handsome. It would be uncharitable to say that they are prodigal in bestowing favours, though their moral code is not unduly severe. Quite a large number of cases which I had to deal with had their origin in

love, jealousy, illicit love and elopements. The Pathans on the other hand are hypersensitive in the matter of women, and even an indiscreet glance at a wife or daughter may be rewarded by instant death.

The landed gentry of the district included some wealthy and politically significant individuals. Of these the Tiwanas were the most important. The family had been richly rewarded for helping the British during the troublesome days of the Sikhs and again during the uprising of 1857. The head of the family when I arrived in the district was Sir Umar Hayat Khan Tiwana. He held the honorary rank of a Lt.-Colonel and had been invested with the title of Nawab. He was, in addition, a member of the advisory council to the Secretary of State for India. Though a 'yes man' of the British regime he was in every respect a charming person with an unbounded sense of hospitality and an endless fund of amusing anecdotes. His house in Richmond was a regular rendezvous of Indian students, and every one who took the trouble to visit him was sure of a hearty Indian meal. He was a true Nawab of the old type. He entertained lavishly, gave liberal help to scores of hangers-on, and on every possible occasion gave expression to his unqualified support of the British rule in India. Once when I was walking with him through St. James Street he stopped to greet a retired 'koi hai' and without the slightest provocation began to laud the deeds of the British officials in India, lamenting at the same time the passing of a golden era. I was somewhat taken aback by this sudden and wholly irrelevant panegyric, but I soon learnt that these somewhat comic and sentimental effusions were no more than an involuntary demonstration of his loyalty and friendship to the people who had given him everything he possessed. When conversation flagged, as it sometimes did when

he had to talk in English, the Nawab would suddenly exclaim: 'The British Government has kept peace in India, but for you gentlemen we should be all the time cutting each other's throats', or he would ask, 'Don't you think, sir, that the Indian finances under British control are the soundest in the world?' There would be an awed silence of assent and conversation would start afresh on another topic.

But once I had learnt to accept the Nawab's unstinted loyalty to the British as an essential part of his intellectual and emotional make-up, I found him a most delightful and likeable character. There was no humbug about him; his adherence to British rule was a logical and honest *quid pro quo* in respect of benefits received. He had a heart of gold and was generous to a fault. He never took advantage of his social relations with the local officers, and though I saw a great deal of him during my eighteen months' stay at Sargodha, he never once spoke of a case in which he or any of his friends or relatives might have been interested, nor did he come to me with any form of *sifarash*. In those days his only son, Khizar, was an unknown personality and I did not have occasion to meet him or make his acquaintance. Later, when I began living in Lahore, I came to know him and respect him for the honesty of his political opinions. As Sir Khizar Hayat Khan Tiwana and Prime Minister of Punjab he headed the coalition Government which kept the Muslims and non-Muslims from breaking out into open conflict till the power of the Muslim League forced him out of office. He now lives a quiet secluded life 'cultivating his garden' in Kalra, his home village.

It was during my stay at Sargodha that I tried what was perhaps the most extraordinary murder case that I have had occasion to deal with. Unlike the

vast majority of killings in the Punjab where the people combine an irrepressibly vigorous physique with a sensitive pride, this was a case of deliberate pre-planned murders. The scene of the gruesome tragedy was the village of Gunjial situated near the edge of the sandy plain from which the dry bleak hills of the Salt Range suddenly rise like artificial hillocks completely blocking out the rich beauty of the Soon Valley. The inhabitants of Gunjial are mostly Pathans who came across the Indus river several generations ago, and, finding unoccupied land, squatted on it. They had to work hard to make the arid land yield its benefits, but the soil was reasonably good and the settlers soon found that the region was not a true desert, for it was easy to sink wells, and once the means of irrigation had been provided their toil was rewarded by rich harvests of wheat and gram.

The Pathans had brought with them their proverbial hospitality, their hot and easily aroused temper, their hypersensitive pride, their interminable feuds and vendettas and their capacity for harbouring a grudge for long periods without giving the slightest indication of nursing and nurturing it till it was ready to raise its head and strike with deadly effect.

In Gunjial there were two clans of the Pathans—the Katta Khels and Shanbeg Khels. For years they had been neighbours with their houses forming a thick cluser separated by narrow lanes, and for years an internecine war had been waged between the two clans. There were long periods of apparent peace, but then suddenly hostilities would break out in a sporadic clash or a quick, well-timed killing. The police station was situated a quarter of a mile from the village and the arm of the law was quickly stretched out to deal with the situation, but the intervention came too late.

It was always the same story, the men of one **khel** had taken their revenge and vindicated their honour. They were not deeply concerned with the consequences, for the ultimate issue of the affair could be predicted with almost unerring accuracy. No independent person unconnected with the two factions would have the temerity to come forward and risk his life by giving evidence against the culprits, even if the murder were committed in broad daylight and within the sight of a dozen villagers. The only witnesses who could be called by the prosecution were deeply interested in securing a conviction, for they belonged to the tribe of the victim. They would be examined and cross-examined to show their partisan nature. A clever lawyer could always inveigle them into making some sort of a contradictory statement. It was also possible, nay probable, that the relatives of the deceased would endeavour to overstate their case and any exaggeration or distortion introduced into the story could easily be demonstrated to be false. Once this was done, the defence lawyer would be in a position to argue that the witnesses had perjured themselves and the maxim **falsus in uno, falsus in omnibus** would apply, and the whole case deserved to be thrown out. The device often proved successful, and as one case after another ended in the acquittal of men charged with causing the death of their enemy, the procession of murders continued, for where the law failed to administer chastisement, private vendetta succeeded.

Hostilities between the two clans began before living members of either faction could remember, but the earliest mention of an open clash in the records of the police station dated from 1906 when a riot broke out in the village and men of both clans received injuries. Both sides were prosecuted on the charge of rioting. The police took action against the ring-leaders

of both clans by asking for a magistrate's order whereby they were required to execute bonds in substantial sums of money undertaking to keep the peace and be of good behaviour. They had also to produce reliable sureties who would give a similar undertaking on behalf of the trouble-makers. To an Indian villager, and even more so to a Pathan, the forfeiture of a bond is a much more serious matter than the forfeiture of a head, for the loss of a life can be easily avenged, but a forfeited bond means a long period of want and penury. So the magistrate's order brought peace, at least, outwardly. The order was renewed from time to time, and it was not till 1921 that the next outbreak occurred. In that year a man of the Shahbeg Khel was murdered. The very next year this murder was avenged and the Katta Khel clan lost one of their prominent men. Two years later the deadly pendulum reached out to take toll of a Shahbeg Khel man. This was followed two years later by the double murder of two men of the Katta Khel tribe. The case against the men charged with these murders failed, because the evidence was considered interested and wholly unreliable. Once again the police had recourse to security proceedings and bonds in heavy amounts were demanded from and furnished by the prominent men of both sides.

So matters stood in the beginning of April 1932. It was the turn of the Katta Khel clan to avenge the the double murder of their men. The security bonds were to remain in force till April, 10, 1932, and to do anything before that date would involve the clan in a heavy financial liability. But the Pathan is possessed of inexhaustible patience when he is waiting for an opportunity to strike his enemy. The Katta Khels kept complete control of themselves and had their eyes fixed on the calendar.

On April 8 the police officer in charge of the Gunjial police station decided to take no chances and applied to the magistrate for a order against the ring-leaders of both parties. The magistrate issued notices to fifteen men calling upon them to appear before him on April 14 and show cause why they should not again be bound down to keep the peace for a further period of one year. These notices were served upon members of both clans on April 9. The Katta Khels were unhappy about this sudden manoeuvre though they could scarcely have expected the police to remain passive. There were just five days left to act and a quick decision had to be made.

A quick decision was made, and a most ingenious plan which only the Pathan mind is capable of conceiving was devised. While the initial steps in the implementation of the plan were being taken, Gul Khan, a head constable posted at a police station more than a hundred miles from Gunjial, received a vague intimation of what was afoot. It so happened that this Gul Khan belonged to the Shahbeg Khel clan and he knew the past history of the feud. Partly because of his relationship with the intended victims but more because he thought it his 'duty to render services to government and gain honour' he took immediate action. He wrote off a letter to the Superintendent of Police, the head of the district police force, and sent three telegrams, one each to the District Magistrate, the Superintendent of Police and the Sub-Inspector in charge of the Gunjial police station. The wording of the telegrams was drawn up by the signaller at Gunjial Railway Station on the basis of a message which Gul Khan sent him :

'Came to know through reliable source that Kattakhel party resolved to attack with guns, pistols, spears etc. upon Shahbegkhel party of village Gunjial

on night between 11-12 April 32 or 12-13 April 32. Great danger of lives expected, kindly arrange. Gul Khan Head Constable.'

The Sub-Inspector, Gunjial, received his copy of the telegram at 9 a.m. on the 11th, and, taking a small posse of policemen, went to the village and stayed there till 8 p.m. He called the village officials and warned them of the danger to the Shahbeg Khel tribe. The evidence he later gave in court was not very satisfactory and did not redound to his credit. He said he had seen no signs of any trouble throughout the day and the Katta Khel men were absent from the village, so at 8 p.m., thinking that the telegram was nothing more than a false alarm sounded by a scaremonger, he went home to have his dinner. Had he been more conscientious and more circumspect he would have realised that that was just the time when his presence in the village was most needed. When this circumstance was pointed out to him he said he intended to return to the village after dinner and spend the night patrolling the lanes and watching the Shahbeg Khel houses. It would be charitable to accept this statement as earnest of his good intentions, though I thought at the time that the Sub-Inspector had simply lacked the courage to stay on, and, having done his duty during the hours of daylight, he felt it was time to 'call it a day' and go home. After all, a policeman's lot is not an easy one, and the telegram might well have been a 'canard'. It came from a place a hundred miles away, and where was the guarantee that the sender was really a police head constable and not somebody with a mischievous sense of humour.

The Sub-Inspector had finished his dinner and was sitting at his table in the police station writing up the day's diary when he thought he heard reports of gunfire. The door of his room was shut and the police

constables on the verandah were talking, so he wasn't quite sure whether what he had heard was really gunfire. But he could not afford to take any chances, and he quickly put his uniform on. He ordered the constables to prepare for going to the village and began to make an entry in the daily diary about the incident. To a policeman the pen is far more important than the sword, he is most meticulous in carrying out the letter of the Police Rules. For him his duty is like justice: it must not only be done but must also appear to have been done.

So it took him a little time to complete the formalities relating to his departure from the police station, and he had not yet left when Sher Bahadur Shahbeg Khel arrived and made the following report:

'I have come to make a report of a murder which has been committed at 9.30 p.m. tonight. Hayat, Gullu Ata Mohammad, Mohammad Khan, Rab Nawaz, Ghulam Mohammad, Gullan and Hakim Khan Katta Khels, who were armed with a gun, a pistol and spears, have wounded me and killed my nephew Mohammad Sher. I and my nephew Ahmed Khan have witnessed the occurrence with our own eyes. Just before this these very men wounded Hakim Khan in his house. The deceased Mohammad Sher and Hakim Khan and I belong to Shahbeg Khel party while the accused are Katta Khels. There was old enmity between us.'

The Sub-Inspector took pains to record correctly the report made by Sher Bahadur. This was the first information of the crime received by the police and the First Information Report (the technical term for such a report) is a document of considerable importance. It contains the first and generally speaking the truest version of what happened before the friends and relatives of the deceased have had time to confer and

embellish with corroborative details something they look upon as a bald and unconvincing narrative. It is the only statement made to the police which can be proved at the trial in order to corroborate its maker. It is the very basis of the case for the prosecution, and if an essential part of it is demonstrably false, there is little hope of the case succeeding. For this reason police officers take pains while drawing up an F.I.R. Some like to include in it as much as possible, so that its evidentiary weight may be considerable, others like to put down just the barest skeleton of the informer's story, leaving gaps and omissions to be filled up later, as the case develops during investigation, so that evidence on all points, important as well as unimportant, can be obtained or 'prepared' if need be. The Sub-Inspector of Gunjial followed the latter course and put down only the bare essentials of the crime, (a) the time and place of occurrence, (b) the names of the offenders, (c) the weapons used by them, (d) the names of the victims and (e) the motive. He would find out (or decide) later which offender was armed with which weapon, what part was played by each and what was the exact manner of execution adopted. The names of the persons who had seen Mohammad Sher's murder were mentioned, but nothing was said about the witnesses of Hakim Khan's murder. This matter, too, could look after itself. Somebody must have been with Hakim Khan at the time and one or two eye-witnesses were bound to come forward and give evidence against the offenders. And as for minor details like where the culprits had gone to after the murder and what had happened to the weapons, there would be no difficulty in providing evidence to complete the picture. This type of innocent filling up is often given the derisive name of 'police padding' by casuistical judges, but a case in its natural state without at least

a few ornamental trimmings fails to give satisfaction even if it results in the conviction of the accused persons.

So, Sub-Inspector Mohammad Amin who was on the whole an honest, simple-minded but earnest police officer, carefully took down Sher Bahadur's report in quadruplicate and handed one copy to the informer, despatched another by a special messenger to the magistrate at Khushab, another to the head of the district police and placed the last copy on the records of the police station. He sent a message to the local doctor asking him to proceed immediately to Hakim Khan's house, and, taking four constables with him, hurried to the village.

Hakim Khan was not yet dead, and though his condition was very grave he was able to stammer out a brief statement. As soon as the doctor arrived, he certified in writing that Hakim Khan was 'in his senses and in a fit condition to make a statement'. The Sub-Inspector then recorded what Hakim Khan said:

'Hayat son of Dost Mohammad, Ghulam Mohammad son of Ahmad Yar, Gullan and Hakim Khan sons of Khudayar and Rab Nawaz son of Mir Boz came armed with spears into my house when I was sitting in my courtyard and injured me. It was a moonlit night, and also a lantern was burning. Mohammad Khan son of Hayat Khan, resident of Kundian, my wife's brother, Noor Mohammad son of Anis and my mother-in-law Sabhai were present near me.'

This statement was made at 10.30 p.m., and soon after making it Hakim Khan died. Such a statement, or, as it is called, the dying declaration of the deceased, is a most important piece of evidence. Courts rightly attach great weight to death-bed utterances, for a man about to face his Creator may be expected to speak only the truth. It was comforting to know that

the dying man had corroborated the F.I.R. The five assailants named by him had also been named by Sher Bahadur. The use of spears was a common element and the mention of the moon and lantern would resolve any doubts regarding the ability of witnesses to identify the culprits at night. But also fresh difficulties had appeared: the dying declaration contained only five names instead of eight in the F.I.R., and there was no mention of a gun or pistol. Moreover the injuries found on the person of Hakim Khan were all punctured wounds caused by sharp-pointed weapons. He had received no firearm injuries at all. This was a problem which would have to be attended to, and if no solution to it were forthcoming one would have to be contrived.

Meanwhile the investigation continued and witnesses were interrogated. Slowly the entire picture emerged. Five men (named by Hakim Khan) armed with spears had entered Hakim Khan's house, while three others, Gullu, Ata Mohammad and Mohammad Khan had stood guard in front of the house. These three were armed with two guns and a revolver. After attacking Hakim Khan, his assailants had rushed out and rejoined their companions. All eight had then gone to Mohammad Sher's house. He tried to escape by climbing on to the roof, but was shot dead by Hayat who had, in the meantime, acquired a gun. Sher Bahadur was attacked in the lane and given a number of spear injuries which fortunately were not serious. There were three witnesses of the first murder and three of the second. The case presented no difficulty at all, and the trial would proceed smoothly. Sub-Inspector Mohammad Amin had not the slightest doubt that, despite cross-examination by learned counsel, the witnesses would stand firm. He would advise them to tell the truth and nothing but the truth. It was always

the best policy. The case must result in conviction, and though he had not been able to prevent the murders owing to a slight miscalculation, he would more than make up for his lapse by winning the applause of his superiors, when the culprits were hanged.

During the investigation it transpired that an attempt had been made to confuse matters by some men of the Katta Khel party. Two of them went to Chakrala a hundred miles away and made an obviously false report of the loss of a horse and a mare at the police station. This report had been recorded by Head Constable Gul Khan who, suspecting that this was part of some ingenious plan to murder his relatives (Gul Khan as I have already mentioned was himself a Shahbeg Khel) had sent warning telegrams to the local authorities. The report at Chakrala was made by Saidulla, son of Ahmad Yar, and Ghulam Mohammad, son of Dost Mohammad. Saidulla was a brother of the Ghulam Mohammad named in the F.I.R., and neither of the two men who had gone to Chakrala had taken part in the murders. Nor had they been falsely named. Two others had similarly gone to distant places and created unanswerable alibis for themselves. One of them named Mohammad Khan courted arrest by pretending to be a bad character and being without any ostensible means of livelihood. He was promptly taken into custody and placed in the police lock-up. This happened on the evening of April 10, at a place more than a hundred miles from Gunjial. The other, Ahmad Yar, was arrested for exactly the same reason and in similar circumstances at 9 p.m. on the 11th at a place more than ten hours' journey by train from Gunjial.

Copies of these reports were received by Sub-Inspector Mohammad Amin, and he saw in them no cause for confusion or anxiety. They fell nicely into the

pattern of the case he was preparing and gave him an opportunity of tightening the noose round the necks of the murderers. He decided to produce this evidence in court in order to show that these alibis were all part of a well-conceived and deliberately planned act, and the men who committed a crime of this nature deserved no quarter. Ahmad Yar had left one of his sons, Ghulam Mohammad, to vindicate the family honour while he himself and his other son, Saidulla, had made sure of their own safety by escaping to distant places and creating evidence of their presence there. Ghulam Mohammad had done the same thing and left his brother, Mohammad Hayat, to avenge the blood of the two Katta Khels who were murdered two years previously. It was unlike the Pathans to run away from danger, but the alibis would serve the Sub-Inspector's purpose admirably, and go to strengthen the case for the prosecution.

The case opened before me on November 21, 1932. There were seven prisoners in the dock, the eighth accused, Ghulam Mohammad, son of Ahmad Yar, was absconding and had not been apprehended. The prosecution was in charge of a capable Public Prosecutor who was assisted by Mr. Shanti Narain, a leading advocate of Sargodha on the criminal side, the defence was conducted by the two most prominent advocates of the district—Rai Bahadur Brij Lal Puri and Sheikh Abdul Ghani. (It was going to be hard going for everyone all the way.

It was.

The first witness to be called (after formal evidence of death and the injuries sustained by the two murdered men had been tendered) was Nur Mohammad, the brother of Hakim Khan's wife.

In examination-in-chief he said:

Hakim Khan deceased was my sister's husband. On the evening when this incident took place I and my mother Sabhai went to his house to ask him if he could let me use his threshing-floor on the following day. Hakim Khan was reclining on his cot in the courtyard of his house and Mohammad Khan was with him. We sat down on the ground near Hakim Khan's cot. He said he intended to thresh his own wheat during the next two days as he wanted to finish the job before the 13th when he should have to go to Khushab in answer to the magistrate's summons. While he was saying this, five men of the Shahbeg Khel party [the witness named them] rushed in with spears and began to stab Hakim Khan. Mohammad Khan and I got up and ran to a room which opened into the courtyard. We came out again when it was all quiet. It was a moonlight night and there was a lantern in the room we entered. I was able to identify all the assailants quite clearly. When we came out again, Hakim Khan was lying on the ground and bleeding profusely. He was, however, still alive. When we were inside the room we had heard the sound of a shot and after coming out into the courtyard we heard two or three more gun-fire reports. A little later the Sub-Inspector and the doctor arrived and Hakim Khan's statement was recorded by them.

The Public Prosecutor had very cleverly elicited only a brief unvarnished account of the occurrence, without any of the embarrassing details which make it difficult to reconcile the evidence of several witnesses, each of whom is anxious to impress the court by giving as complete a picture as possible, even if in so doing he has to draw on his imagination. But the defence counsel were not going to let the matter rest

there. They took charge of him and slowly, persistently, ruthlessly began to cross-examine him. They questioned him first about his relationship with the other witnesses and with the prisoners. Mohammad Khan was admitted to be his cousin. The other eye-witnesses were also close relatives. Apart from the family feud between the Katta Khels and Shahbeg Khel's there were personal grudges and animosities between the witnesses and the prisoners. Rab Nawaz and his brother had brought a suit against the witness for the recovery of a sum of money, another prisoner had given evidence against him in a criminal case. His gun licence had been withdrawn on the complaint of one of the prisoners.

The questions were then directed to the incident itself.

Why had his mother Sabhai accompanied him? 'For no particular reason,' the witness replied.

Was Hakim Khan's wife present in the house? 'She was leaving the house as we entered.'

Didn't she stay back on seeing her mother coming to visit her? 'No.'

During the preliminary enquiry before the magistrate, hadn't the witness said that his sister remained in the house for some time and then went out? 'No, he had not said this.'

The witness's previous statement was read out. He had, in fact, said on that occasion that his sister stayed behind for some time and then went out. He was asked to explain the discrepancy. He persisted in denying that he had made such a statement in the magistrate's court.

The cross-examination continued: Was there enough light in the courtyard, and was the witness really able to identify all the assailants? How high was the moon? Where was the lantern? Did the witness raise an alarm

when his brother-in-law was attacked so brutally? How many injuries were inflicted, and by whom? Did the assailants of Hakim Khan say anything before attacking him? Did they try to pursue the witnesses into the room? The interrogation went on about and around the incident till every possible detail had been brought out.

Sabhai was the next witness to be called. She repeated the story related by her son. In cross-examination she said she had accompanied him to bring her own influence to bear on her son-in-law and persuade him to lend his threshing-floor. This was necessary as Hakim Khan had already said 'no' to Nur Mohammad earlier in the day, and she thought she would be able to make him change his mind. This fact had not been mentioned by her in her statement to the magistrate. She said she had tried to snatch away Ghulam Mohammad's spear and in the process she had received cuts on both her hands. Her injuries were no more than slight scratches on the fingers of both hands, and it was argued by the defence that they had been subsequently caused by a friendly hand to lend conviction to her story. She was closely questioned on this point and her answers were far from convincing. 'I do not remember if the doctor saw my injuries at the house. I cannot say whether it was the dispenser from the hospital or the doctor who bandaged my hand. I do not know if the Sub-Inspector made a note in his papers about my injuries.' On a number of minor matters she made statements contradictory to what her son had said.

The third witness, Mohammad Khan, was also a relative. He was a resident of Kundian, a town six hours' journey by train from Gunjial. He had come to Gunjial three or four days before the 11th to have his bitch covered, and was staying with Hakim Khan.

The rest of his story followed the same pattern. He was cross-examined at length, and it transpired that Head Constable Gul Khan of Chakrala was his sister's husband and Hakim Khan's wife was his first cousin. The reason for his visit to Gunjial provoked a number of questions. The witness had obviously anticipated this line of attack and prepared himself to meet it. 'I did not hear Hakim Khan's dog or my bitch bark. They are greyhounds and greyhounds do not bark. The dogs were in a room, they did not attack the prisoners.'

Three witnesses of Mohammad Sher's murder followed and were cross-examined. The prosecution then called evidence to show that four men of the Shahbeg Khel party had deliberately absented themselves from Gunjial on the night of the murders and fabricated alibis. This could only mean that the whole affair had been previously planned, and in this respect the alibis constituted an important piece of corroborative material. Finally, Sub-Inspector Mohammad Amin was examined on matters relating to investigation, and the case for the prosecution was closed.

The prisoners were examined and asked to explain the evidence produced against them. They all said they were innocent and had been falsely implicated because of the old-standing enmity between the two families. Two of them, Gullan and Rab Nawaz, pleaded alibi. The Public Prosecutor looked sceptical and shrugged his shoulders at the folly and futility of producing defence evidence in what he called a cast-iron case. But as one defence witness after another made his deposition in court, a strange story unfolded itself, and the plan of the Shahbeg Khels was seen to be even deeper and more diabolical than had, at first, appeared.

Gullan's defence was that he went to see the Education Officer of the Government Co-operative Department at Lala Musa (120 miles from Gunjial) on the evening of the 9th April and remained with him till the morning of the 10th. He then started back for home on his mare. In the way he dismounted and sat down by the roadside to urinate. A motor-lorry happened to pass by and the noise of its engine frightened the mare, who broke loose and galloped away. He spent the rest of the day looking for his mount, and the following morning he was taken ill. He visited the village dispensary at Chelianwala and obtained some medicine from the doctor. He then proceeded to Dhinga where there is a police station. There he made a report of the loss of his mare and then went back to Lala Musa. He had to go to Jhelum to see an official of the Co-operative Bank about a loan, so without buying a ticket he boarded the night train for Jhelum. There he detrained at midnight and was immediately arrested by the railway police on the charge of travelling without a ticket. He remained in police custody till the 13th, when he was produced before a magistrate. He pleaded guilty and was convicted and fined. He paid the fine and returned home to be told that he was wanted on a charge of murder committed on the evening of the 11th.

This long and elaborate story was substantiated in every particular by evidence of the most convincing type. The Education Officer deposed to Gullan remaining with him from the evening of the 9th until the morning of the 10th. An entry in the register of outdoor patients maintained by the doctor at Chelianwala mentioned Gullan's visit to the dispensary on the 11th. The police records of Dhinga contained a report made and thumb-marked by Gullan, and finally

there was the evidence of a police official and a magistrate of Jhelum which left no doubt whatsoever that Gullan was arrested at midnight on the 11th, on the charge of travelling without a ticket, and detained in police custody till the 13th when he was convicted and fined. There could be no question of the genuineness of this evidence. It was impossible to fabricate police and magisterial records, nor was there anything suspicious about the register of the Chelianwala dispensary. Lala Musa is more than a hundred and twenty miles from Gunjial and Jhelum is twenty miles farther. To reach Jhelum, one must leave Gunjial a whole day earlier, for there is no direct railway connecting the two places, and Gunjial is on a branch line along which only slow trains travel. Gullan's thumbprints taken in the police register at Dhinga and at Jhelum left no doubt regarding the identity of the man who had been moving from place to place during the period April 9 to April 12.

It was thus proved beyond the shadow of a doubt that Gullan had not taken part in the crime. Yet this story had more than a tinge of the artificial about it. His movements between the 9th and the 13th were not the movements of a man going about his business in a normal manner. The aimless wandering in search of what was perhaps an imaginary mare, the visit to a dispensary for the treatment of a malady which was cured in a miraculously short time, the deliberate commission of an offence against railway law and the naive courting of an arrest on the very evening the murders were committed, seemed calculated to forestall something which was previously known to Gullan.

The alibi of Rab Nawaz followed the same pattern. It was equally artificial and equally conclusive. Like Gullan he had chosen to say nothing at the time of

the preliminary enquiry by the magistrate. His statement before me was:

I am innocent. On the night of the occurrence I was not in Gunjial. On the morning of April 11, I went to Sargodha and bought a railway ticket for Ajnala and took the Ajnala train. When I reached Ajnala, I discovered that the man I had gone to see had left the previous day, so I rushed back to the train. The train had begun moving, and in the ensuing confusion, my money fell out of the fold of my loin-cloth. At the next halt the railway Baboo caught me and kept me in custody as I could not pay the excess fare. I was sent back to Lala Musa the next morning and there the police recorded a report against me. A man came forward to pay my fare and I was released at noon on the 12th. I then proceeded to Khushab to appear before the magistrate in the securities case against me and my relatives. There a police officer arrested me on the charge of murder.

Evidence to prove each and every fact in the above statement was called and produced. There could be no denying Rab Nawaz's innocence.

So, out of the seven prisoners in the dock against whom six eye-witnesses had given sworn testimony, two had complete and unanswerable alibis. Somewhere and somehow things had gone wrong. Was the whole case a piece of fiction? Had anybody seen the murders at all, and if any witnesses were present, had they been able to identify the assailants? Had wholesale perjury been committed by everyone on the prosecution side or had the passion for revenge overpowered reason so completely that the witnesses had

introduced the names of two innocent persons without realising the consequences of such a rash step.

It was this last hypothesis on which the Public Prosecutor pinned his faith. His argument was that courts of law attached altogether too great an importance to the F.I.R. It was no doubt right and proper to treat the earliest information of an offence given to the police as the basis of the prosecution story, but this attachment to the F.I.R. must not be allowed to become a sort of religious preoccupation. The informer could have made a genuine mistake or he might have been led into a slight exaggeration by his enthusiasm. The evidence showed that five of the persons had most certainly taken part in the murders—the two who had pleaded alibi could be given the benefit of doubt and acquitted. He made a vehement appeal for the conviction of five men and asked for the death sentence for each of them.

The advocates for the defence followed. Rai Bahadur Brij Lal Puri, a seasoned lawyer, tall and proportionately broad, got up and stood like a massive tower in the middle of the court-room. He began by saying that his task was an easy one—two of the men had certainly not taken part in this dastardly crime, yet six witnesses had sworn that they had seen Gullan and Rab Nawaz among the men who attacked Hakim Khan and shot Mohammad Sher. How could any statement made by such witnesses be believed. False in one thing false in everything was a well-accepted, safe and salutary principle of the law of evidence, etc. etc. The case against his clients was wholly false and baseless, and all of them must be acquitted.

Shaikh Abdul Ghani, a more impassioned speaker—he was a politician and an elected member of the Punjab Legislature, came last. He pointed out the flaws and discrepancies in the depositions of the wit-

nesses, stressed their partisan leaning, their entire disregard for truth and their insatiable, relentless desire for revenge. The whole prosecution story was a tissue of lies, and no court of law would hang a tiny sparrow on such tainted, such palpably false evidence, etc.

What had happened was plain enough. The attitude of magistrates and judges towards the F.I.R. is well known to the villagers. They also know that a case founded on a false F.I.R. seldom results in the conviction of the accused persons. There have been scores of cases in which even a partially inaccurate F.I.R. has defeated an otherwise good case. So the Shahbeg Khels thought that if an element of falsehood could be introduced or allowed to creep into the F.I.R. they would be safe. The murder was planned and six of their men were deliberately sent out of Gunjial with detailed instructions on how to fabricate alibis for themselves. Five out of these six were among the twelve Shahbeg Khels who had been previously bound down to keep the peace and in respect of whom the police had applied for a renewal of the magistrate's order. They had all been summoned to appear on April 14. They were the ring-leaders of the Shahbeg Khel party and would be expected to participate in anything important planned and executed by the clan. They would inevitably be named by the opposite party whether they took part in the murder or not. So it was a safe bet that if they kept out of the affair, some, at least, of them would be falsely named as having been present and as having actually taken an active share in the proceedings.

The anticipated happened. The Katta Khels fell into the trap, and two of the six who had gone away were named in the F.I.R. as having been among the

assailants. Afterwards it was too late to retrace the false step, and the witnesses persisted in the folly of implicating Gullan and Rab Nawaz with the rest who in all probability were the real murderers. But no court could be absolutely certain of their guilt and convict them on evidence which was clearly false and perjured in so far as it related to Gullan and Rab Nawaz.

All the seven accused were acquitted.

THREE

A CASE OF POISONING

ONE of the hardest things to prove in a court of law is a charge of murder by poisoning. The reason is that in such a case there is usually no direct evidence of the crime. Poisoning is a deliberate and pre-planned act. The murderer has to acquire the poison and find an opportunity of administering it in circumstances which do not arouse the suspicions of his victim, otherwise the attempt will fail, and the would-be murderer will stand unmistakably revealed. So the poisoner acts with care and circumspection; he chooses a time and place which are calculated to obviate discovery. No one must see him actually administering the poison, and he must remove traces of his association with the crime.

All that is available in such cases is circumstantial evidence, with motive as the most important ingredient. Motive undoubtedly is good and admissible evidence of crime. The man in the street is even apt to accept it as complete proof of guilt. The accused person, he argues, had a cogent and compelling reason for killing the deceased, no one else had any desire to compass his death, ergo, the accused person is the murderer. But a moment's reflection will show that, at best, the motive is only one part of the case for the prosecution. By itself it cannot sustain the entire burden of proof. It is a circumstance which may give rise to very strong suspicion, but suspicion, however strong, can never take the place of proof. There is

an obvious fallacy in the argument: he wanted to do it, therefore he must have done it.

For this reason, courts of law have laid down a very just and salutary principle for judging the weight and value of circumstantial evidence. And the principle is this: The evidence produced by the prosecution must be inconsistent with the innocence of the accused. It must lead to one conclusion and one conclusion only—the accused is guilty. So, in addition to **motive**, the prosecution must prove **means** and **opportunity**. In cases of poisoning there must be proof of three matters in addition to the proof of motive. In the first place it must be shown that death was caused by poison, secondly there must be evidence of the fact that the accused person had in his possession the particular poison which caused the death, and lastly, it must be proved that the accused had the opportunity to administer the poison in question to the deceased.

In most cases of murder, motive is the starting-point of the investigation, and where the motive is of an unusual nature and points unmistakably to one person only, the police find it hard to resist the temptation of completing the case by supplying what they feel convinced exists, if only it could be discovered. This tendency, however deplorable, is frequently observed in India, and the lamentable fact is that the highest and the most conscientious police authorities give countenance to it. They would vehemently repel the suggestion that this really amounts to fabrication of false evidence, and justify the irregularity by pleading that magistrates and judges are unduly peevish while dealing with criminal cases and demand nothing short of a foolproof case to justify a finding of guilty: so there is really no harm in pandering to their wishes. After all, so the argument continues, the person in

the dock is guilty and deserves to be punished for his crime. Why should the ends of justice be sacrificed to an excessively squeamish conscience?

This way of thinking is, however, fraught with the gravest danger to the liberty of the individual. It is not for the prosecution to determine the guilt of a suspect, or adjudicate upon matters which fall within the function of courts. The prosecution cannot assume as proved the charge against an accused person, and then proceed to make sure of the ultimate issue by procuring false witnesses or fabricating evidence with the object of satisfying the court. Many good cases are ruined by over-zealous police officials. I know of cases where a little more initiative and energy displayed in the matter of investigation would have brought important material to light, and obviated the necessity of filling up lacunae with fabricated evidence. By way of illustration, I may recall the case which arose out of the murder of Mohinder Singh by poisoning.

At 11.30 p.m. on the 9th of February 1957, Dharamvir Singh, a young man of 19 or 20, went to the police post at Yamunanagar and made a report to the effect that his nephew, Mohinder Singh, had died very suddenly when he was about to take his evening meal in a local hotel. The story he related was that earlier in the day, Mohinder Singh, accompanied by three other persons, Ram Kishan, Ram Parshad and Krishna, had gone to see him at his house, in order to discuss the purchase of some land owned by Dharamvir Singh. When the matter was concluded, Ram Parshad and Krishna left, but Mohinder Singh and Ram Kishan stayed on. All three went to see a show at a local cinema-house and when they came out at 9.30 p.m. they decided to go to a restaurant for their evening meal. They accordingly

went to the Punjab Hotel and took a private room as the dining-room was too crowded. They ordered dinner, and sat down to wait for the meal. Mohinder Singh left the room to go to the lavatory, and when he returned a few moments later he suddenly collapsed and fell down unconscious. Ram Kishan and Dharamvir Singh lifted him up and placed him on a charpoy which was in the room. The hotel proprietor was summoned, and a man was immediately sent to fetch a doctor. Mohinder Singh's condition was rapidly worsening, and by the time the doctor arrived he appeared to be *in extremis*. Dharamvir Singh sent a message to his father-in-law and also sent a jeep to fetch Mohinder Singh's brother from his house. In the meantime the doctor, who was attending Mohinder Singh, gave him an injection of Coramine to revive his failing heart. This proved ineffective and Mohinder Singh died within an hour of his having been taken ill.

Dharamvir Singh concluded his report by saying: 'Mohinder Singh was addicted to the use of opium and hemp. His death has occurred by chance and is due to heart failure. There is no doubt or suspicion of any kind on this point.'

Ram Kishan had accompanied Dharamvir Singh to the police post, and he, too, made a statement in similar terms. His statement was also recorded by the police official before he proceeded to the Punjab Hotel to commence his inquiries.

The usual routine of interrogating the witnesses, preparing statements and sending the dead body to the mortuary for post-mortem examination followed. In the meantime the relatives of the deceased arrived, but they could throw no light on the unfortunate incident, and the story of an accidental death due to heart failure was accepted.

The dead body reached the mortuary on the morning of February 10, but the doctor was prevented from performing the autopsy by a woman who claimed to be a close relative of the deceased and said she would call a doctor of her own choice to examine the dead body. She said she would obtain a court order to stay the autopsy. The official doctor agreed to wait till 4 p.m. More relatives of the deceased arrived, and insisted on calling their own doctor to be present at the autopsy. Further delay thus occurred, and it was not till the morning of the 11th that the post-mortem examination could be performed. By this time everybody's suspicions had been aroused and foul play was suspected.

These suspicions were confirmed when the doctor looked at the internal organs of the deceased. The muscles and tissues were bright red in colour, the brain and membranes were congested, as also the mucous membrane of the larynx and trachea, and the lungs. The chambers on the right side were engorged with blood. The liver, spleen and kidneys were congested. The stomach contained 16 ozs. of undigested food; the mucous membranes of the posterior wall and of the duodenum were congested. These signs all pointed to death by poisoning—the poison suspected being some compound of cyanide. The doctor, accordingly, sent the viscera for a chemical analysis.

There is unfortunately only one Government Chemical Examiner for the entire State of Punjab and his office is situated at Ambala. There is always a long queue of samples waiting to be analysed and reported upon and the procedure for sending a suspected sample for his examination and obtaining a report from him is so tardy that much time elapses before the result is known. I have always felt that the delay occasioned is inexcusable and may well lead to

a failure of justice, but the general opinion seems to be that the only way of ensuring the confidence of the public in the integrity of the Chemical Examiner and his staff is to centralise his office and keep him away from local influences; also it is impracticable and far too costly to have a large number of Chemical Examiners with elaborate laboratories and technical staff needed for the purpose.

So, the usual delay occurred in this case, and it was not till February 18 that the report of the Chemical Examiner was ready. Even then it was not immediately despatched, and it was only on March 16 that the investigating police officer received it. The Chemical Examiner had found 5.6 grams of potassium cyanide in the viscera sent to him; this was considerably more than the minimum lethal dose of this very potent poison.

In the meantime the investigation of the case had made very little progress, though the police had formally registered a case of murder and had taken Dharamvir Singh into custody. The police were moved to take these steps because of two letters received by them. The first of these was written on March 1 to the Deputy Inspector-General of Police by Mrs. Bhardwaj, the woman who had intervened and prevented the autopsy from being performed on the morning of February 10. She claimed to be an aunt of the deceased. She accused Dharamvir Singh of murdering her nephew and bitterly complained of inaction on the part of the police:

Mohinder Singh died under very strange and suspicious circumstances. I am told that he was invited by one Ram Kishan who is Dharamvir's friend, at about 7 on the evening of February 9, to accompany them to a picture cum usual drink and dinner

entertainment. These three went to a restaurant, and within ten minutes or so the boy was no more. The police was called and the body was sent for post-mortem examination and these two, namely, Dharamvir and Ram Kishan, have not been asked to explain the circumstances and the possible cause of this sad episode.

The chemical analysis from Kasauli is still awaited, and it appears that nothing will be done for all this when a life has been taken apparently by these two; and that seems to be the end of this. . . . I wonder whether there is still any doubt left when everyone knows fully well 'who has done it', and still cannot utter a word. I do not really know. I am sure if the authorities take the slightest bit of interest, all these criminal sins can be traced out easily.

The second letter was addressed to the Inspector-General of Police. It bore no date, but it appears to have been written at about the same time as Mrs. Bhardwaj's letter, for it was received by the Inspector-General of Police on March 3. It was signed by the 'Bhagwati Devi, widow of Mohinder Singh deceased', and narrated the story of the visit to the picture-house and thereafter to the restaurant, and went on to say:

I suspect that Dharamvir has done some mischief and spoiled my case, because the police are doing nothing in the matter. We have an old-standing enmity with Dharamvir, on account of which he has murdered my husband. I and my children are in great danger of our lives from him, and he may kill us also. There is no one to look after us. Dharamvir often comes to our village armed with weapons, and threatens us.

Bhagwati Devi referred to three matters which, according to her, furnished the motive for the crime: (i) her deceased husband had obtained a decree against Dharamvir for a sum of Rs. 7,700/- and this amount was still due, (ii) Dharamvir had taken away a gun from the house of the deceased and had been compelled to return it when the matter was reported to the police and (iii) Dharamvir had sold his share of the property inherited from his father and had squandered all his assets; he now wanted to waste his younger brother's property, but the young boy was too shrewd for him. Dharamvir suspected that it was the deceased who was instigating the boy. Bhagwati Devi hinted at 'many other mischiefs' which Dharamvir had 'played about which proofs exist', and explained the delay in bringing all these facts to the notice of the authorities by pleading that she 'was very much perplexed on account of the sudden death' of her husband. She concluded by saying:

Now I strongly appeal to the officers that full attention may be given to this matter and action taken. The culprit should be given deterrent punishment, so that he may come to his senses. I shall endure whatever my life has in store for me.

These letters found their way down to the local investigating police, and, as already indicated above, Dharamvir Singh was arrested on March 13. During the course of his interrogation he gave some information which led the police to arrest Ram Kishan on March 18. The case against these two persons, however, was still based on suspicion and conjectures and the police had nothing definite to go upon beyond the report of the Chemical Examiner which pointed to murder by poisoning and the fact that Dharamvir

Singh and Ram Kishan were with the deceased when he died. The motives mentioned by Bhagwati Devi were hardly cogent enough to move a man to murder. The deceased was the son of Dharamvir Singh's first cousin and stood to him in the relationship of a nephew. Relatives often quarrel and then make up their differences. Enquiries revealed that it was not the deceased who had obtained a decree against Dharamvir Singh, but on the contrary, it was Dharamvir Singh's father who had brought a suit against the deceased, his brother and some other persons; and in this suit a decree was passed in favour of Dharamvir Singh's father. So Bhagwati Devi's allegation was found to be baseless. As regards the removal of the gun, there was no evidence beyond her bare statement; the police records were completely silent on the matter, and no report about the gun appeared to have been made. The third allegation about the influence which the deceased was believed to have exercised on Dharamvir Singh's younger brother was too vague and unsubstantial to be accepted as a motive for murder. The police were back to where they had started, and though they had effected two arrests they were still floundering and looking for evidence of the kind which a court of law would be prepared to act upon.

This came suddenly and from an unexpected quarter. On March 26 the Ambala branch office of the Life Insurance Corporation of India received a confidential letter from their Assistant Branch Manager, Prabhakar. The information contained in this letter, which was passed on to the police, was to the effect that Mohinder Singh, deceased, had taken out an insurance policy for the huge sum of Rs. 175,000/- only two months before his death. Prabhakar drew attention to the fact that Dharamvir Singh had originally made a report of death due to heart failure, and as the police

had arrested him the matter should be enquired into before any claim was paid.

An examination of the insurance policy taken out by the deceased showed that Dharamvir Singh was the nominee entitled to receive the sum of Rs. 175,000/- on Mohinder Singh's death, and Mohinder Singh's address was stated to be care of Dharamvir Singh. Enquiries made from the insurance agent revealed that Dharamvir Singh had paid the first premium on the policy by a cheque for Rs. 5,925/-, and intimation of the acceptance of the insurance proposal was sent on December 4, 1956, to Dharamvir Singh's address. It was, to say the least, very unusual for a man who had a wife and children and a home of his own to nominate a second cousin, once removed, as the recipient of the entire assured sum, and give his cousin's address as the place to which further communications should be sent. It was not enough to say that Mohinder Singh was illiterate and depended on a person whom he looked upon as his uncle and who could be trusted to take care of his family in the event of his death. Dharamvir Singh was eight years younger than his 'nephew', and there was between the two families the matter of an unsettled decree for Rs. 7,700/-. It was still more unusual for the nominee to pay the premium, and when to these facts was added the circumstance of Mohinder Singh's sudden death only two months after the insurance proposal was accepted, the case against Dharamvir Singh could, without any fear of contradiction, be said to be complete in every respect.

The police, however, wanted to be doubly sure, and prevailed upon Ram Kishan to accept a conditional pardon and become an approver. He agreed and made a detailed statement relating the manner in which Dharamvir Singh had planned his cousin's death, pro-

cured the poison from a chemist in Saharanpur (a town 50 miles from Yamunanagar where the murder took place), and on the day of the occurrence taken the victim to a restaurant and, during his temporary absence, added potassium cyanide to the whisky and soda which had been poured out for Mohinder Singh. This statement was reduced to writing by a magistrate, and Ram Kishan signed it in token of its correctness.

The case was ripe for the courts, and Dharamvir Singh was charged with murder and committed to stand his trial in the court of the Sessions Judge of Ambala.

After examining the doctor who had performed the autopsy, the prosecution put Ram Kishan, approver, in the witness-box. He had confessed to complicity in the crime of murder, and had undertaken to tell the truth on pain of his pardon being withdrawn. If the court took the view that he was concealing something or making a false statement, he could be charged with murder and tried. In that event his own confessional statement could be used in evidence against him. The prosecution was sure he would support the case against Dharamvir Singh, but Ram Kishan sprang a surprise. Almost the first thing he said was that he had never accompanied Dharamvir Singh to Saharanpur to buy potassium cyanide from a chemist of that place. He went on to deny that any whisky was served in the Punjab Hotel, or that anything was added to the glass from which the deceased drank. 'No whisky bottle was opened. In fact, there was no whisky, and the question of our taking it did not arise.' He reiterated the version given in the first information report made by Dharamvir Singh at the police post, viz., Mohinder Singh went to the lavatory, and when he returned after a few minutes he fell down in the doorway. In answer to a specific question asked by the Public Prosecutor,

Ram Kishan repeated, 'No potassium cyanide was administered to the deceased.'

On this, the Public Prosecutor naturally made a prayer to the court that the witness be declared hostile, and he be allowed to cross-examine him. The court, at once, granted this request. Ram Kishan was confronted by his previous statement in which he had described the plan to murder Mohinder Singh and the manner in which potassium cyanide was procured from Saharanpur and administered to him in a glass containing whisky and soda. He said:

'I did make this statement. I made it under police pressure, because I was being subjected to physical torture. I was threatened that unless I made it I would be remanded once again to police custody and the torture continued.'

He admitted that he had, till then, made no complaint of being subjected to any form of duress. He denied that the relatives of Dharamvir Singh had promised to give him six acres of land if he resiled from his previous statement.

The defence counsel cross-examined Ram Kishan. He did not take long and asked only a few questions, to all of which Ram Kishan made replies favourable to the defence.

'It is correct,' he stated, "that the deceased used to visit the prisoner almost every day. The mother of Mohinder Singh, deceased, is alive. She is living with a tailor with whom she has an illicit liaison.'

Q. I put it to you that Mohinder Singh felt unhappy because of his mother's illicit liaison with a tailor.

A. This is correct.

Q. I put it to you that Mohinder Singh felt tired of his life because of his mother's connection with a tailor.

A. This is correct.

Q. I put it to you that on account of his mother's illicit connection with a tailor and the resultant mental pain, Mohinder Singh began to take opium and hemp.

A. This is correct.

Q. I put it to you that the police told you to make a statement in accordance with their wishes, and when you said your original statement was correct, you were tortured.

A. This is correct.

Q. Why did you not complain of the torture to the District Magistrate when you were produced before him?

A. I was afraid of the police.

Ram Kishan's sudden defection weakened the case for the prosecution, but there still remained enough material to warrant a verdict of guilty. There was, in the first place, the clearest imaginable motive. Secondly, there was evidence of procuring the self-same poison which had caused Mohinder Singh's death. Sant Singh, a salesman of Dr. Budhwar & Bros., Druggists and Chemists of Saharanpur, was called as a witness, and he deposed that on January 30, 1957, a country physician, Budh Dev, who was an old customer, came to purchase some medicines. He was accompanied by the prisoner, Dharamvir Singh, and the approver, Ram Kishan. Budh Dev tendered a list of the medicines he wanted. One of the items in the list was two drams of potassium cyanide. The medicines were packed up and two cash memos were prepared, one in respect of potassium cyanide and one in

respect of all the remaining items. A separate memo for potassium cyanide was necessary because it is one of the restricted poisons and Budh Dev signed it. Some weeks later the police came to his shop and took away the book containing the carbon copies of the memos in question. The originals had been handed over to Budh Dev at the time of purchase.

Questioned further, the salesman stated: 'I enquired from Budh Dev why he was buying potassium cyanide. He pointed to the prisoner and said that his companion who belonged to his village needed it for photography.' In cross-examination the witness admitted that he had made no entry of the sale of potassium cyanide in his register of poisons as required by law. The explanation he gave was: 'In case a poisonous drug like potassium cyanide is sold to a **vaid**,* it is not considered essential to make an entry in the register. I did, however, obtain the signature of Budh Dev on the cash memo, in token of having sold two drams of potassium cyanide to him.'

Budh Dev corroborated this story in every respect. He said he knew Dharamvir Singh as a big landowner of his village. He also knew Ram Kishan because he had often treated him for an ailment caused by excessive drinking. The story of the visit was narrated by him in detail.

On 30th January, 1957, at about 12 noon or 1 p.m., Ram Kishan and Dharamvir Singh came to my consulting room. Dharamvir Singh said that my treatment had not cured Ram Kishan and suggested that all of us should go to Saharanpur and consult a specialist like Dr. Budhwar Brothers. There is a doctor in that firm who is available for consul-

* A physician practising the indigenous system of medicine.

tation and treatment. Medicines are also sold by the firm. I replied that Ram Kishan could accompany me on my next visit to Saharanpur. The prisoner insisted that I go with them that very day as Ram Kishan's condition was deteriorating. I said a whole day's absence from my consulting room would mean loss of fees, and I would go only if I were paid Rs. 30/-. Ram Kishan and the prisoner agreed. In the course of further talk the prisoner said that he needed some potassium cyanide for photographic work, and asked me if I could give him some. I told him that the drug was available in big shops only, and since he was going to Saharanpur he could buy it from Budhwar Brothers.

The three men travelled to Saharanpur by bus and went to the shop of Budhwar Brothers. Dr. Budhwar had gone home and Ram Kishan could not consult him. Budh Dev proceeded to buy the medicines he required and also asked for two drams of potassium cyanide. When salesman Sant Singh observed that potassium cyanide was a very strong poison, Dharamvir Singh said he had been a science student in college, and photography was his hobby. He had often handled potassium cyanide and knew what precautions to take. Budh Dev brushed aside Sant Singh's scruples by telling him that Dharamvir Singh was one of the biggest landlords of the district and completely dependable. The medicines and potassium cyanide were packed up, and two cash memos were prepared. The one relating to the purchase of potassium cyanide was signed by Budh Dev. He identified his signature on the carbon copy of the memo shown to him in court.

This was clear evidence of procurement of potassium cyanide by the prisoner despite Ram Kishan's

denial. Motive and means were thus proved. Finally there was the question of opportunity. On this point there could be no doubt at all. The prisoner and the deceased were together at the time the poison must have been administered! It was not denied that dinner had been ordered at the Punjab Hotel. The deceased had eaten some part, at least, of the meal served to him as 16 ozs. of undigested food was found in his stomach at the time of post-mortem examination. It was also admitted that the deceased had left the prisoner to go to the lavatory and had remained absent for a few minutes. This had furnished the prisoner with the opportunity he needed of adding the poison to the deceased's food. (In making his report to the police, Dharamvir Singh had given a slight twist to his story, and said that the deceased had collapsed immediately on returning from the lavatory, whereas in reality he must have come back and eaten his dinner before he was taken ill. Potassium cyanide is a very strong poison and acts very rapidly; death usually takes place within a few minutes.

The Sessions Judge accepted the story presented by the prosecution, and, convicting Dharamvir Singh, awarded the capital sentence.

The convict preferred an appeal to the High Court, and he engaged Mr. Jaigopal Sethi, the foremost criminal lawyer of Punjab. The matter would have come before the High Court even if no appeal had been filed, because a sentence of death must be confirmed by two Judges of the High Court before it can be carried out. Mr. Justice Capoor and I heard the appeal.

An appeal is virtually a rehearing of the original case, and the whole matter was open before us. Mr. Sethi began reading the evidence and commenting on

it. Halfway through his arguments, he made a strange and unusual request. He wanted to call a paper expert to prove that the cash memos in the book of Dr. Budhwar & Bros, had been interpolated, and the evidence of procurement was, therefore, false. He had discovered the fabrication only when he examined the memos during the lunch interval when the court arose. He prayed that, in the interests of justice, the hearing be adjourned for two days to enable him to summon the expert. The request, coming from a counsel of Mr. Sethi's standing, could not be treated lightly, and we agreed to the adjournment.

When the matter came up before us again, two days later, Mr. Sethi placed William Marshall, Assistant Mill Superintendent of Shree Gopal Paper Mills, in the witness-box. Marshall deposed that he had had nineteen years' experience in practical paper-making in England before he took up his appointment in Shree Gopal Paper Mills. He supervised the manufacture of paper 'right from the beginning, i.e. the intake of raw material up to the completion of the finished article'. He examined the two cash memos and compared them with the remaining memos in the same book, and said that the two memos had been inserted later. The texture of the paper used for the memos in question differed from the texture of all the other memos which were uniform. The paper used for the two memos had no water-mark at all, while the paper from which all other memos in the book were prepared bore fine diagonal lines. There was also a difference in the opacity of the two papers. Marshall was able to demonstrate to us the truth of his statement by holding the various memos up against the light and pointing out the differences he had mentioned. The memo book consisted of a bundle of unnumbered memos

stitched together with twine. It was quite easy to undo the stitch, insert two sheets of the same size from a book of blank cash memos and restitch the bundle.

There could be no doubt at all that that is precisely what a police officer had done in the excess of zeal. He had been unable to trace the source of the poison, and had fabricated this piece of evidence. He had satisfied his conscience by telling himself that Dharamvir Singh was really guilty of murder, and there could be no harm in adding a 'corroborative detail' to an otherwise good case. A case of law, however, could not take such a light view of the matter, and when the story of procuring potassium cyanide from Budhwar Bros. was proved to be false, Mr. Sethi was triumphant. He declared that the bottom had fallen out of the case for the prosecution, and the prisoner was entitled to an acquittal. At the conclusion of the hearing of the appeal we said we would take time to consider the matter and reserved judgment.

In my chamber Mr. Justice Capoor and I discussed the matter. Both of us felt convinced that the convict-appellant was guilty. The motive pointed to him and him only. There could be no doubt regarding Dharamvir Singh's aim in inveigling his cousin into taking out an insurance policy for such a huge amount, and the circumstances in which Mohinder Singh had met his death showed that Dharamvir Singh had prevailed upon him to go to the cinema and thereafter to the Punjab Hotel, so that an opportunity for administering poison should be forthcoming. But the matter of the fabricated evidence worried me a great deal. It was not so much a question of adopting a perverse attitude

and throwing out a good case because the prosecution had been guilty of committing a peccadillo, as of giving countenance to methods adopted by the police to secure a conviction. There was the gravest objection to suborning false witnesses and fabricating documents. Besides, I asked myself, could one be absolutely certain that the rest of the story and the evidence produced in support of it were unimpeachable. I expressed my doubts to my learned brother Capoor, and said I would prepare a judgment and send it to him. The same day I dictated a detailed order discussing all the evidence produced in the case and giving reasons for holding that the charge of murder could not be held to have been proved beyond all reasonable doubt.

Two days later, Mr. Justice Capoor came to my chamber with the draft judgment I had prepared. He said he could not find fault with the logic of my reasoning, but he felt that, in allowing the appeal and acquitting Dharamvir Singh, we should be perpetrating a grave injustice, because the appellant was beyond doubt guilty. According to the law of evidence a fact must be taken as proved if, on hearing the evidence in support of it, a prudent man would act as if the fact existed. Read this evidence to a prudent, right-thinking man in the street, said Capoor, and watch his reaction. A million to one he will say Dharamvir Singh is guilty of the murder of Mohinder Singh. I saw the justness of this claim and asked my colleague to prepare his own judgment. I said we would discuss the matter again, and if I found his reasoning convincing I would tear up my own judgment and concur with his decision. I could of course have continued to hold to the conclusion I had arrived at, and in the event of a difference between us, the case would have gone

to a third Judge who would have had to hear the whole appeal *de novo*. But I myself had a feeling inside me that Dharamvir Singh was guilty, and since the murder had been committed not only with malice aforethought, but preplanned for the very sordid motive of monetary gain. I was anxious to prevent a miscarriage of justice by wrongly acquitting a guilty man. So I overcame my initial reluctance to dismiss the appeal.

Mr. Justice Capoor sent me his judgment a few days later. It was a carefully prepared document, and I gave it the attention it deserved. My colleague had accepted the evidence of the paper expert, and remarked:

The contention made on behalf of the appellant that the incriminating cash memo was inserted into the cash memo book some time after the investigation had commenced, therefore, appears to me justified, and accordingly the evidence given by Sant Singh and Budh Dev has to be ruled out.

He, however, went on to say:

It does not follow from this that the appellant is *ipso facto* entitled to acquittal. It cannot be maintained that if the prosecution is unable to prove how the accused got hold of the poison with which the murder was committed, or that he had that poison in possession, the case for the prosecution must be thrown out. The court has to look to the circumstances of each case and if such circumstantial evidence admits of no other conclusion but that the accused must have administered the poison which caused the death of the victim, it is the court's

duty to pronounce him guilty. After anxious consideration, I am fully satisfied that this is one of such cases.

After a little hesitation I decided to concur with this decision, but I remarked jokingly that Dharamvir Singh had a sporting chance if the Supreme Court gave him special leave to appeal.

An appeal to the Supreme Court does not lie on a question of fact, and where the High Court comes to a finding on its assessment of the evidence produced in the case, the Supreme Court declines to interfere. In a special case where some rule of evidence has been transgressed or where the Supreme Court, by way of abundant caution, wishes to examine the case, special leave for a hearing is granted. My prognostication proved right. Dharamvir Singh moved the Supreme Court for special leave. Leave was granted and his appeal was ultimately allowed. The learned judges were, of course, greatly influenced by the fact that an important piece of evidence had been deliberately fabricated by the prosecution.

FOUR

NEW WINE AND OLD BOTTLES

ON January 1, 1956, the following solemn document was drawn up and signed:

THERE IS BUT ONE GOD

**If your heart yearn to play the game of true love,
Come to my alley bearing your severed head
on your palm.**

O God, on this auspicious day, we two, Thy humble servants, stand before Thee to take a sacrificial vow. We have long loved one another, and today we pray for Thy protection and for Thy blessing. We know full well that our love is a steep and difficult cliff, but with Thy assistance we shall be able to climb it. You yourself have created love and without love the soul remains unsatisfied. Love is the soul's food. Love draws out love and the wine of love brings joy; we pray that we may for ever remain intoxicated with it. We both know that love does not fall to the share of everyone. Only those who are chosen by You enjoy its blessing. The flame of love has been kindled by You in our hearts and it is by Your grace that we feel its heavenly warmth. Today we beg of You to give us alms in the shape of love. Love is our sole desire and nobody but You can satisfy it. Be our Protector for all time, and when we are in difficulty or when our

minds waver, come to our assistance and give us Your protection. We earnestly wish that we may continue to love each other even when we are apart for long periods. Today our love is full of sweet perfume like the morning breeze that caresses the soft petals of fragrant flowers. It is like the joy of the new born moon. O God, protect the sweet and tender flowers of our garden from the cruel hand of a heartless ravisher.

As the new year has dawned today on our happiness, even so we pray for happiness in the years to come. May sacred desires dwell in our hearts for ever. May our love flourish always and may we be always together in joy as well as in sorrow.

There was a touch of tragedy in this piece of melodrama. The signatories to the sacred pledge, Bashi and Jogi, used their own blood for ink while writing their respective names at the foot of the document. Bashi was the nickname of a young woman, Gurbakhsh Kaur, who came of a well-to-do family of farmers, and Jogi stood for Lt. Jogindar Singh a handsome young army officer of 24 who had been commissioned eighteen months previously. Bashi and Jogi both belonged to the same village in Central Punjab, and had grown up together as neighbours and playmates. They were separated during the years of adolescence, for each had to go to a different school and college when the need for higher education necessitated their leaving the village. Jogi migrated to Hoshiarpur, where he completed his secondary school course and joined the Doaba College. Bashi went to a girl's high school, and, after passing her matriculation examination, began to study for the B.A. degree in a women's college, also at Hoshiarpur.

They met again in 1952. Jogi was now 21 and Bashi was 18.

Jogi's father was a simple unassuming man who was fond of his two sons and did the best he could for them on his modest means. He worked as a school-master in a high school in the neighbouring district of Ludhiana, and from his meagre salary saved enough to give his boys a college education. He was well thought of and respected by his equals, and, in particular, Bashi's father held him in high esteem. Bashi's family consisted of three brothers and a sister. Both her parents as also her grandparents on the father's side were alive. The family was a closely knit unit as most rural families are, and they owned enough land and livestock to live in comfort. They had a tractor of their own which was used to cultivate the land and transport agricultural produce to the market. One of the sons owned a motor-bicycle, and there were several 'push'-bicycles for the common use of the family and the farm workers. They had left their native village and had taken up permanent residence in Piplanwala, a hamlet, scarcely two miles from the district town of Hoshiarpur. They had built a farm-house with residential accommodation and outhouses for livestock at a place half-way between Piplanwala and Hoshiarpur. The farm was used as a sort of guest house for visitors and friends of the family, and Bashi's brothers sometimes slept there for a night or two when they wanted especially to concentrate on their studies.

The family was a curious mixture of enlightened modernism and irrational orthodoxy, superstition and antiquated notions of propriety. Jiwan Singh, the father, was on the whole a broad-minded individual, and had given an up-to-date education not only to his three sons, but what was very uncommon among

people of his standing, to both his daughters, sending them to school and then to college. He had allowed a certain measure of freedom to his daughters, and they were free to go to town alone, attend classes in college and return home in the evening. When Jogi began to come home with the young boys, no one raised an eye-brow because he came into close contact with their fully grown sister and behaved towards her in an open, friendly manner. Jogi and Bashi had known each other as children, and it was the most natural thing in the world that when they met after the lapse of many years they should resume their association from the point at which they had left off. The fact that they were now man and woman made no difference to Jiwan Singh's attitude towards them. Nor the matter of that did the brothers at first attach any importance to the growing attachment between these two young people.

Jogi was tall, slim and almost handsome. He was always well groomed and his hand-bag contained a pair of small scissors and tweezers. Despite the strict injunction of the **gurus** to keep sacred and inviolate every hair on the body of a follower of the Sikh religion, Jogi was not above snipping off a refractory lock or plucking out a stray hair from his beard to maintain a trim appearance. The photograph I saw of him was taken soon after he received his Army commission, and he looked a smart well-turned-out young officer upon whom any woman would have willingly conferred her favours. His mental outlook was that of a serious, conscientious man who, albeit free from the soul-destroying virus of ambition, was earnest and active enough to perform his duty at all times with energy and competence. His officers thought well of him and he was not slow to receive promotion.

Bashi and he made a good pair, and a photograph of them taken in the open air showed that she was only slightly shorter than her companion. She had large eyes full of animation, perhaps even of fire if the occasion arose, a handsome face, oval in shape with rather a large sensuous mouth. Her dress was neat and she carried it with the self-possession of a woman who goes to college and has learnt to cope with male glances of the welcome as well as of the unwelcome type. I saw her sitting at the back of our court-room in May 1957. She had come as a spectator to the proceedings which had arisen out of her tragedy and Jogi's. She sat alone on one of the long red-leathered sofas in the public portion of the room. Her face showed the ravages of sorrow, and **soigne** look of the photograph had given place to a what-does-it-matter-now appearance. But the regularity of her bone structure and the bloom of youth were still there, and she still possessed a brisk, almost an athletic, gait.

Her elder brother, Gurbakhsh, might have come straight from a primitive tribe of some wild and uncivilised region. He had his own code of morals, his own list of taboos and his own way of dealing with situations he disapproved of. Though he went to college and drove a motor-bicycle, his mind was attached to the land and firmly fixed to the traditions and superstitions of a bygone age. When he met Jogi in the Doaba College after the lapse of several years, he was willing enough to renew their own childhood friendship and bring him home to Piplanwala on an occasional holiday, but a strange reserve soon entered into their relationship. There was nothing whatever wrong with one of his friends becoming fond of his sister, but anything more than a brotherly affection on his part was to be looked upon as an abomina-

tion. In the eye of Gurbakhsh Singh, a boy and a girl who belonged to the same village, who had grown up together in childhood innocence and who played with each other without restraint as if they were members of one family, should stay as brother and sister, and not profane the purity of their love with anything which carried even a faint savour of man and woman relationship.

Jogi and Bashi were well aware of Gurbakhsh's attitude towards them, but they were completely helpless against the strong tide of emotion which carried them happily along and filled them with hopes of even greater happiness to come. To avoid needless unpleasantness they began to exercise a certain measure of discretion in their mutual behaviour. A stolen glance full of hidden meaning, a quick holding of the hands, a surreptitious hug brought a sense of fulfilment to their love. They began writing to each other in secret. There was, however, nothing in their conduct which could be called unworthy of man or woman by the highest standards of morality.

In 1952 Jogi was selected as an Army cadet and in 1954 he received his commission. Everything now seemed quite simple. Bashi's parents would surely not hesitate to give her in marriage to a young Army officer, and Jogi's father had already expressed his assent to the union in an oblique way when the matter was mentioned in his presence.

So, on New Year's Day, 1956, the lovers made the solemn vow set out at the beginning of this chapter and signed it with their blood. They wrote to each other more frequently after this and spoke of their love in explicit terms: 'Come to see me any day whenever you can', she wrote once. 'I cannot tell you how upset I feel. Come before the end of the week.' And when he pleaded his inability to get

leave, she insisted : 'No, Jogi, you can surely get leave. I know this quite well in my heart.'

Gurbakhsh's violent opposition to their union was a constant topic of discussion between them. Bashi kept her lover informed of what was happening at home, and her letters, during this period, were full of a sense of frustration at the turn events were taking. It seemed that even Bashi's parents were being influenced by Gurbakhsh's irrational attitude and were refusing to take a decision, as if procrastination would, in some miraculous way, solve the problem.

A quarrel has just taken place [she wrote] which has not done any good at all. My mother does not speak to me. But what does that matter? I shall not speak to her. Let us see how long she remains silent. I shall tell you everything when I see you, and why she has ceased speaking with me. Jogi, my parents do not come to any decision, nor do they leave me in peace. What should I do? They won't let us do anything.

A few days later she wrote, 'Jogi, I believe and I am certain of this : all that my brother is doing is meant to cause delay. I spoke to them twice as you wished, but now I am silent about the matter. Let us see what they do.'

And again: 'Yes, my Jogi, I have discovered this much after full efforts. All of them enquired from brother Gurbakhsh and he told them in clear terms that whatever happens he would not be a party to my marriage, nor would he be present at it. The family could do what they liked. 'That is his final decision.'

Things did not improve and Gurbakhsh's tantrums poisoned the atmosphere at home. She wrote almost in despair: 'Now, as long as brother does not give his

consent, you should not write to me at Piplanwala. Also do not come to see me here. Send your reply to the college address.'

Jogi had throughout behaved in an exemplary manner, trying his utmost to placate Gurbakhsh and make him see reason. He did not utter a single word of anger or resentment against him. When he burnt some photographs of the pair, which Bashi treasured a great deal, he wrote: 'I know about the burning of our photographs, but I don't worry. I am sending two more, one small and one large.' He went on to say:

I have written to my father in a tactful way and I am sure he will agree. As regards Gurbakhsh, it would be so much better if you could somehow persuade him to come to see me here, because it is very easy for me to discuss and decide things. We should hurry up now and ask him to have the betrothal ceremony performed, as this will settle the matter; otherwise you know what will happen. We are going to suffer. I shall not be able to do my work nor will you be able to study. Remember, the opportunity in hand must be used in the best way. Moreover, it seems to me that it will be very difficult for us to meet unless the matter is settled. I have talked over things with my friends, and they have also advised me that the only way to settle the issue is to get the betrothal solemnised at an early date. This will serve two purposes. First we shall be able to see each other, secondly it will put a check on the delaying tactics of your parents. But what can I say; you must do what you think best. I am grateful to you and proud of the heroic manner in which you have braved everything, but, Bashi, it is time, we got a firm decision. Tell them

to make up their minds before October, so that in the Dussehra holidays we can perform the ceremony. If they are not ready to come to a final decision, write to me, and I shall tell you what to do. Do not agree to six months' postponement, as this is a clever move which we must resist. Another thing: do not conceal overmuch, so that even if other people come to know, we should not be afraid of them. You may tell your grandfather.

For the rest, I shall think over the matter and write you again. Do not worry, and for heaven's sake, start your studies. There is a lot we have to do. This hurdle is a small thing. There is life A whole life to struggle for and to be happy and prosperous. Go on writing to me whatever happens. Cheer up and don't worry. As long as I am alive I shall see that you are happy.

With love,
Ever yours,
JOGI

This was written on September 16, 1956. The young lieutenant was getting a little impatient of the evasive and procrastinating tactics of his prospective in-laws. Although he was sure of himself and of his beloved, he wanted everything to be above-board. Elopements have a way of leaving an aftermath which does not help to promote happiness and peace, so Jogi wanted a formal betrothal to which members of both families should be consenting parties. A week later he wrote :

My darling Bashi, I embrace you with all my love. I have received your letter. I am grateful that you have thought of writing to me. You wrote only one letter last week. Remember, I shall ask

you why, when we meet Yes, Bashi, the first piece of news is that my father has agreed. I received his letter today. When I have seen your mother once, she too will agree. The second thing is that I shall come to see you as you suggest. But I shall not come to the house. I shall meet you in college. I shall try to come before the end of the week. Yes, Bashi, the next thing is our engagement. Well, if Gurbakhsh does not agree, let him not. He will come round afterwards. Don't worry. I shall tell you how to make him agree. As you say, it makes no difference, and if you come with your mother and Inderjit I am agreeable. You will have to stay the night. I shall make all the arrangements. Consult your mother. The rest will be decided when we meet. Don't start worrying. If they do not agree, we shall decide what to do after discussing the matter.

How are you? Now your college has opened. Do not say anything to anyone in college for they will only laugh at you. There is no harm if relations come to know. Does your father know? Well, Bashi, let me finish now. Yes, start your studies. I am coming to see you this week. Give my respect to your mother. Bashi, a tight hug for you and all my love.

The course of true love was not running smooth. For a young man in love, Lt. Joginder Singh possessed an amazing degree of patience and reasonableness. He had to go away for an Army course towards the end of October, and time was getting short. Late on the evening of October 7 he sat down to write a long letter to his beloved in which he discussed, the detail, the two possible courses open to them with the pros and cons of each. Nothing gives a greater insight

into the lovable character of the unfortunate lieutenant than the perusal of this document.

Secret.

Darling Bashi. I embrace you with love and send you my greetings. Bashi, first of all I must thank you for your letters. I cannot tell you what consolation they bring to me. I can only thank you with bowed eyes, if you in your graciousness will accept my thanks. Bashi, it is evening time and the shadows of night are closing in from all sides, bringing peace and shutting out the brightness of the day. How soft and sweet is the gentle drizzle outside. Not a leaf stirs. It is in such calm that I have decided to think about our difficulties and write to you. Bashi, can you see the sky, how soothing is the light of the moon when it peeps through the clouds. Its cool beams intoxicate the man who looks up at it. But this is hardly the time to dwell on such things when my very life is a whirlpool. Well Bashi, today sadness will certainly give place to happiness. Yes Bashi, I have marked today's letter 'secret' because it contains a special meaning. You should keep it with great care, but at the same time try to understand the depth of its contents with a cool and thoughtful mind because I am writing about things which relate to our future life. Every word of mine and every sentence demands your earnest consideration, because Bashi, I alone cannot decide everything. The time has come when you should advise me in every matter. You are not a child and you should not leave everything

to me. I requested him* to come to Jullunder, but he refused. I do not know why, but I presume that there was some reason over which he had no control. Be that as it may, we should not compel him against his wishes. He has helped us a great deal in the past, I have thanked him and written to him telling him that I shall not trouble him any more. Bashi, if you think proper, you might also write and thank him. Remember, however, that no one is bound to help us and we can only thank them for whatever they have done.

This, however, gives rise to several problems, for instance, our letters. I can write to you at your college as also to your home address whichever you like. It is for you to decide. As far as the home address is concerned, we should not be too sure, but I can write a simple test letter. I have not been writing to your college address because I was not quite sure if girl students in your college are allowed to receive letters. Tell me, is there any danger of discovery. To be quite sure I shall always register my letters as the postal authorities are not authorised to deliver such letters to anyone but the addressee. Whatever your decision, please let me know. I shall not post any more letters till I receive a reply to this one. You can tell me on what day to post my letters. In the meantime, I shall write you a test letter at your home address, but we must not depend on this system. Am I right in this? Then there is the question of my feelings. Bashi, did you really suspect that I can ever turn

* Jogi's younger brother, Sarvinder, who had acted as their messenger carrying letters to and fro between them. Now, for some reason, he could not come to Hoshiarpur.

away my face from you? No, I lack the courage. How could I do it? Whom else do I need in this world but you. How can such foolish things ever enter your mind? Can I leave one whom I adore so much. I have placed a sacred mark on my forehead which will remain till my body is cremated on the funeral pyre. Bashi, who is left in the world excepting you? I have abandoned everything. My work exists only because of you. I for myself am confident that Bashi is for ever mine. I have written this because it is just possible that we may not be able to write to each other for some considerable time, nor may we be able to see each other, but we must not stray from our course. Am I not right in this?

Next comes the question of our decision. Bashi, we have asked them twice. Have courage. They will have to announce their decision. I have written a letter to your brother today of which I enclose a copy. Bashi, note carefully how your brother reacts to my letter. He will at first be excited, but then my letter will cause anxiety and I hope that he will then decide with a cool mind. If he wishes to come to see me, encourage him to do so, and let me know. I shall receive him. Yes, Bashi, ask your mother also and write to me every word of what happens. Bashi, we have already undergone so many hardships and if God has to put us to any more tests, let Him do so. Tell your mother that she should not pray in vain for my death, because such a calamity will only cause suffering to her own daughter.

Oh Bashi, I do not know why my brain is becoming dull. I have not even begun what I intended to write, yet write I will. You will have

to guess a great deal. Let me now continue in English.

Have you ever thought what we should do. Well, I have under consideration two plans which I am going to write to you with all the advantages and disadvantages, but remember all depends on the way our parents decide the matter. Let us see what are the possible plans.

PLAN A

We shall get married by the 21st of this month. You should reach this place on the 20th with the few possible dresses arriving here in the morning by about, 12, so that we can settle and I can take you to your college before I leave for my course.

Disadvantages

There are a number of disadvantages in this plan which are as follows :—

- (a) Everything will have to be done in haste;
- (b) I shall be leaving on a course in November and coming back in February. Again I shall be going for a practice camp in March for a month. The result will be that we shall have to stay as we are now, because, in any case, I cannot take you along to Faizabad as it will disturb your studies;
- (c) the change at this stage will definitely disturb your studies;
- (d) it will give a shock to our parents who hardly expect anything at this stage;
- (e) it will create difficulties in my professional work also because even the **Jawans** come to know about it; and
- (f) lastly, it might result in financial difficulties also.

Advantages

- (a) The biggest advantage is that we put an end to all our difficulties, end our mental torture and reach our goal;
- (b) all our worries will come to an end.

A word of advice

If after taking into account all the above factors you decide to follow this plan, please let me know at once. In that case you must tell me your exact time of arrival and any other detail which you want to clarify. Remember that we cannot go beyond the 20th because I would like to be settled in a good house with a good servant and with all the necessities before I go for my course. Also I would like to finish your migration from college before I leave. Another thing you must remember is that I cannot come to your house to fetch you, as this will involve us in certain legal complications and your parents will get an opportunity of bringing a case against us. Now let me tell you the second plan.

PLAN B

We carry on as we are doing quietly till May 1957. You finish your B.A. examination and I finish my course and practice camp. We go on trying for an amicable solution and obtaining the consent of our parents. Failing that we marry in May 1957.

Disadvantages

- (i) One major disadvantage is that we have to lead an unsettled life for another seven or eight months.

- (ii) We are open to become the victims of parents' efforts.
- (iii) We remain slightly unhappy during the next few months, because we shall not be able to freely and as we like.
- (iv) Your education during this period will require much more mental effort and we might have to suffer on this account.

Advantages

- (a) We get plenty of time to think and plan things according to our desire which we may go on discussing during this period.
- (b) We get a chance of finishing your education up to B.A. and my course before we plunge into marriage, thus avoiding separation immediately after marriage.
- (c) I might be able to manage my posting in South India by that time which means that we shall live away from any unnecessary disturbance.
- (d) I might be able to get my two months' leave in May and there is a chance of going to a hill-station to enjoy our honeymoon.
- (e) By that time our parents may revise their decision in our favour.
- (f) If our parents do not decide in our favour, they will have enough time to consider and they will not grudge us whatever we want.
- (g) You will command much more respect as a graduate girl than coming to me as a student.
- (h) There will be no question of facing any financial difficulties.

Well, Bashi, I have analysed a major problem. The cards have all been laid in front of you. You are the best judge now. Think for yourself and decide the course of action. As far as I am concerned, you are my life and soul and anything decided by you will be accepted to me honestly and cheerfully. Let me leave this matter here.

Yes, whatever may be, Bashi, do not give up your studies. If you can prepare for your examination, you must appear. Bashi, my darling Bashi, one should overcome difficulties cheerfully.

Now Bashi, it is 11-30 p.m. I wish we could have been together at this time and have talked sweetly to each other. I would have loved and kissed your limbs and removed all your sorrow. Do you remember the morning we were on a swing? We would have gone on swinging till...

Well, Bashi, I have written too much today. Excuse me if you find any nonsense in my letter. It is almost midnight now. I should await a reply to this letter till Thursday. Oh, God, I wish my Bashi to be always comfortable and happy. In the end I hug you tightly. Yes Bashi, I nearly forgot, are not you going to fulfil your promise? Please reply soon.

Ever yours,
JOGI

The same evening he wrote to Gurbakhsh Singh the letter of which he enclosed a copy to Bashi, and the letter was couched in very conciliatory terms—

My dear brother,

Sat Siri Akal. You have to decide a very complicated matter before the Dussehra festival. Only

please keep in mind that the way to remedy one mistake is not to commit another mistake, but think over the matter and what the end of it will be. You are afraid of what people will say, but remember that whatever you decide, the people will find some flaw or fault in it. It is my earnest request that whatever decision you are going to make should be made within the next few days. Do not say afterwards that I did not give you the chance to think the matter over. I know only this much that I shall not be able to live without you, and you, too, will not be able to do without me. Maybe, it is difficult for you to decide anything in this way. Therefore, come here. Both of us will sit down together and discuss the whole matter amicably. We shall reach a decision which will be acceptable to all. Greetings to everyone.

Your brother,
Joginder

The betrothal ceremony took place in the school-master's house at Hoshiarpur on October 19. Bashi's parents and her grandfather were present. A few neighbours, including a local advocate, a college professor and a doctor were invited 'to grace the function'. Lt. Joginder Singh received the usual gifts, including a gold ring and gold bangle with his name engraved on them. In accordance with the usual custom, Bashi was not present. All three of her brothers stayed away and declined to participate in the ceremony. Jogi's effort to win Gurbakhsh over had completely failed. His opposition to the contemplated union continued unabated, and the happy relationship of the betrothed couple was constantly marred by Gurbakhsh's histrionics, though they were blissfully unaware of the venom fermenting inside him.

The proverbial obduracy of the Punjabi Jat had reached the stage of a malevolent monomania which consumed his whole being with an insatiable passion for revenge. The injury to his personal ego was magnified to the proportions of a family dishonour, and there was only one way of vindicating it. But as yet he gave no indication of the horrible plot that had begun to take shape in his villainous head.

On December 16 Jogi, while writing to his betrothed, spoke of his hopes and aspirations, telling her that he had done well in his tests, securing 65 per cent marks and standing fourth in his class. He had been called upon to give a speech, and he was well pleased with his performance.

As regards the speech, I have done better than I expected. You know Bashi, it is easy to speak when you know that there is nobody to criticise you, but when somebody is assessing you and is going to criticise you, it becomes quite a difficult job. One has to be careful and weigh each word and each gesture. I count the speech as a great success in my career, because I am convinced in my mind that from now onwards I can confidently address any type of audience. Bashi, after all it is not so difficult. Once you get to know of the subject, and with knowledge one gains confidence to face the audience. However, the fact remains that it is a type of experience worth having. Well, if you ever feel like going on the stage, let me know. I shall give you a number of hints which will be of great help to you.

He went on to refer to Gurbakhsh, who had been sulking of late—

Thank God, the situation is becoming quiet after all. I am not really worried about your brother, because it is a good thing that is happening. Now remain calm and see which way the wind blows. Let him put his patience to the test. Do not say anything against him, my darling, but simply keep quiet and watch. Let him reach the climax after which he will begin to change. You understand that the psychology of a man is that he changes after reaching the climax. For example, if a person is annoyed, let him remain annoyed till he reaches the stage when his anger bursts. You will see that he will definitely cool down afterwards and repent his action.

But he ended on a happy note :

For the rest everything is well. I am keeping an account of the crosses which I send you. Your limbs will be tired by receiving all these crosses but I shall not spare you. I shall kiss you so passionately that the redness of your lips will vanish. I shall exhaust your beautiful cheeks. I shall hug you so hard that your breasts more delicate and more beautiful than flowers will be tired....

A month later, on January 17, 1957, he sent a brief note to his prospective mother-in-law. Gurbakhsh had again been making things unpleasant at home, and Jogi pleaded for reason and calmness:

Respected mother,

Sat Siri Akal. I hope you are all well. I am writing this after thinking about the whole thing. Please pay attention. Dear mother, it is easy to

spoil a spoilt thing, but it is very difficult to put it in shape again. I have tried my best to mend matters, but all of you make things difficult for me. What is going to be the ultimate result? This is something to which you do not give thought. I told you the other day that we would not do anything without obtaining your consent, but for God's sake, don't compel us to do anything rash. My regards to everyone.

On the same day he wrote to Bashi, at greater length, about the same matter.

Let me first write something about brother. I know exactly what he must have said. A weak man always indulges in abusive language when he cannot do anything else, but we shall not retaliate. Bashi darling let him shout. Go on listening quietly, but never never be swayed by anger. We shall meet in February and decide our line of action. I am writing a letter to your mother. Let her read it and watch her mood. Write to me in detail the attitude of everybody, so that I can decide our future course of action. Yes, Bashi, one should be tactful. You should not pick up a quarrel with him when he is in an excited mood. Gandhi taught non-violence to the public to put them on the right path. He had so much power that by one of his fasts he shook the whole of the British Government. Does Gurbakhsh think that our attitude is due to some weakness in us? It is not difficult for me to put him right, but as he is your brother I won't do anything.

In February Jogi's regiment was to be stationed at Hoshiarpur for a whole month, and the lovers were

jubilant, because they would have frequent opportunities of seeing each other. He wrote and gave her the good news:

My sweet rose Bashi,

Sat Siri Akal. I received your letter yesterday and was happy to read the contents. Darling, don't get so excited. I had written to you only by way of a joke. Please do not take the trouble of coming to Jullundur. I shall myself be at your place as early as possible. I have dropped the idea of going to Gian and putting my luggage there. I shall leave it in the Cloak Room, Jullundur Cantonment, and straightway take the bus to Piplanwala. I shall be there any time after 9 o'clock. By the way how many crosses have you received by now? Are you ready to clear the debt or not? We shall most probably go to see an English picture. You can find out beforehand what is on. Then we can sit down somewhere and talk at some place where we can be alone for a while. If there is nobody at the house, then we can stay there, otherwise we shall think of something else. We shall be meeting each other quite often, because I am going to be at Hoshiarpur for a month or so and then at Jullundur Cantonment. In case there is any last-minute change in the programme, I shall let you know. But most probably we shall stick to this programme and I have already booked my seat from this place. I have finished one of my tests, but there are still three more to go. I have done well, with your good wishes, I am sure to do well in the remaining tests which will take place on consecutive days next week.

I hope nobody is greatly disturbed by the news that I shall be coming to Piplanwala, but if anybody is, then let him be.

With love,
Your own,
JOGI

This was followed by another letter written the very next day in which he wrote:

I shall be reaching Jullundur by the morning of the 10th at about 7-30. After leaving my luggage in the cloak room I shall straightway come to Piplanwala. Please tell everyone at home that I am coming. Let us see what happens. I dare anyone to insult me. However, the final decision is that you must not come to Jullundur, but I shall come to fetch you. Bashi, do not be worried the least little bit, because I assure you that nobody will have the courage to say a word to me. However, that will be seen on the 10th. But, in any event, tell your mother and Gurbakhsh about my visit, so that he may not say tomorrow that he was kept in ignorance. I know that this decision of mine to come to Piplanwala will cause some annoyance and there will be people who will be puzzled and worried. They might even lose their temper, but you must wait and see what happens. In any case, find out what English picture is on, and be ready to come with me.

On the morning of the 10th Lt. Joginder Singh came to Piplanwala and spent a few hours with the family. Gurbakhsh gave him a dark look and went out. The other two brothers, Surjit and Tnderjit, suffered his presence, glowering at him and remaining

silent. The atmosphere remained strained till Jogi and Bashi went away to see a picture at Hoshiarpur. During the next four weeks they met each other often, not secretly, but discreetly away from the openly hostile influence of Gurbakhsh. Once when he went to the farm-house, Inderjit invited him inside for a cup of tea. Gurbakhsh and another young man were standing near the door and Gurbakhsh pressed him to stay. He was almost affable in extending the invitation. This was such a welcome contrast to his usual scowling silence that Jogi was tempted to stay. But he had had his tea and was pressed for time. He excused himself and went back to Hoshiarpur.

Gurbakhsh was manifestly angry and lashed out at his brothers and the stranger whom he had especially called to the farmhouse. This man, Mohinder Singh, was a stranger only to Jogi, for Gurbakhsh and his brothers had known him for quite some time. They had become acquainted through Gurbakhsh's cousin, Achhru, in whose company Mohinder Singh used to go to the Indian cinema at Hoshiarpur. Gurbakhsh used to say that Mohinder's father practised magic and prepared love charms, amulets and devices of various types to cure mental and physical ailments. He asked the old man to prepare a charm which would disabuse his sister's mind and wean her away from the unholy attachment to Jogi. This modern witch doctor wrote out a charm on a small piece of paper, breathed a prayer into it, and, folding it into a tiny ball, handed it to Gurbakhsh with instructions to put the charm in Bashi's tea and let the writing dissolve in it. After a while the paper was to be removed and thrown away, leaving no visible evidence of the magical power added to the beverage. Gurbakhsh followed the old man's instructions to the last letter, but he saw no change in his sister's behavi-

our. The sort of affection which Bashi entertained for her lover was not within the witch doctor's competence. Gurbakhsh tried other means and consulted other sages, fakirs and sadhus; he spent several hundred rupees in the endeavour to bring his sister back to what he considered the path of reason and righteousness, but all his efforts were of no avail. The attachment between the young couple continued unabated; indeed, it increased and became even more firmly rooted in their hearts. They were now talking of an early marriage, and Bashi seemed criminally happy at the prospect of leaving the parental home and going away to lead a life of incest with a man who was daily becoming more and more insufferable. There was only one thing that could save the situation before it became irretrievable—only one thing that could vindicate the family honour and prove a brother's love for his sister, and Gurbakhsh resolved to do it. He could not do such a thing single-handed, but help was near at hand. Such things happened in villages, nobody regarded them with abhorrence or fear, and with a little planning and circumspection he would be able to achieve what he had been striving for.

On April 1 Jogi came to the farm-house and sent a message to Bashi in Piplanwala that he was waiting for her. Inderjit took out his motor-bicycle and went to fetch his sister with a readiness that surprised the young lieutenant, accustomed only to the sulks and tantrums of his future brother-in-law. When Inderjit delivered his message to Bashi, Gurbakhsh was present. He raised no objection to her going to meet her lover, and only asked Inderjit to bring the bicycle back at once. The third brother Surjit was at the farm-house and the day's programme was discussed in his hearing.

It was a glorious day, and the young lovers took full measure of the happiness offered by it. They walked to Hoshiarpur, wandered about in the park, took their lunch at a restaurant and returned to the farm at 2 p.m. There they sat and chatted, Inderjit and Surjit keeping them company and joining in the conversation. In the evening, Bashi and Jogi went for another walk, and spent an hour strolling in the municipal park discussing the most suitable date for their marriage and making beautiful plans for their future. Bashi advised caution and suggested a short postponement as Gurbakhsh's present mood was scarcely calculated to make things go smoothly. Jogi, on the other hand, wanted an early marriage and said that Bashi's brothers had by now resigned themselves to the inevitable and had even become reconciled to it—they had, of late, been almost affable towards him. The discussion was continued over a late tea and on the way back to the farm-house where they arrived at 9 p.m.

Surjit and Inderjit were present at the farm-house, and were to spend the night there with Joginder. There were only two beds laid, and Jogi was told that one bed was meant for him, while the two brothers would sleep in the other. After a short while Surjit took his sister back to Piplanwala on the pillion of his motor-bicycle, and, leaving her there, returned to the farm-house. The story may now be continued in Bashi's own words from the statement which she made before the magistrate:

I had promised to meet Joginder Singh at the farm-house at 7 a.m. the following morning. When I was getting ready to go, Surjit came to the house. It was about 6 a.m. He said that Jogi had left early in the morning and he would write to me as

soon as he could. I told Surjit that it was impossible that he should go away without seeing me and saying good-bye. Then I started thinking he might have become annoyed with me on account of what I had said about postponing our marriage. I became confused and upset. At 8 a.m. I went to the farm-house. My brothers, Surjit and Inderjit, met me outside the door but they would not let me enter. I asked them to accompany me to the Cantonment at Jullundur where they said Joginder had gone. They replied that they had no time to waste, and advised me also not to go. I could not stay away and took the 8.30 a.m. bus to Jullundur and went to Lt. Joginder Singh's house. There I met Sardara Singh, who was formerly orderly to Joginder Singh. He told me that 'Sahib' had gone to Hoshiarpur and was not expected back till the next morning. I sent Sardara to the house of Joginder Singh's father at Kala Bakra. Sardara returned in the evening and told me that Sahib was not there. I stayed the night at Jullundur, and waited the whole of the next day which was April 3. Joginder Singh had to report back to duty that day and when he did not make an appearance by 9 a.m. I became very worried. My brothers, Inderjit and Surjit, now arrived and took me back to Piplanwala. Seeing my anxiety they sent two telegrams. Surjit wrote out one; it is the one shown to me, and Gurbakhsh the other one. I identify the writings of my brothers.

Surjit's telegram was sent to Joginder Singh at his regimental address, and contained the following brief message.

'BASHI SERIOUSLY ILL COME SOON SURJIT.'
He told his sister meaningly: 'That will fetch him

if anything can.'

Gurbakhsh addressed the other telegram to the Adjutant of Jogi's regiment:

'PLEASE GIVE LT. JOGINDER SINGH'S INFORMATION PIPLANWALA GURBAKSH SINGH'.

There was no response to these telegrams, and Bashi waited for two more days, her anxiety increasing each moment till it reached the proportions of a panic. To continue Bashi's narrative—

On April my brother Inderjit came and said I was wanted by Sant Singh (Jogi's father) at the farmhouse. But when I went there I found him gone. On the 7th I took Inderjit and went to Kala Bakra to see Sant Singh. He told me that he had searched for his son everywhere but had found no news or trace of him.

The witness went on to describe the clothes which had been on Jogi's person when she left him on the evening of April 1. She was shown a gold ring and a gold bangle. These she identified as the gifts which had been given to Joginder Singh on the occasion of her betrothal to him. She also identified a large number of letters which had been exchanged between them: she herself had produced the ones she had received from him and hers were found in a suit-case lying at Jullundur.

On the morning of April 7 all hope of finding Joginder Singh alive was given up, and Sant Singh made a report of his son's mysterious disappearance to the police, giving details of the circumstances in which he had left Jullundur to go to Piplanwala. This report was made at the Jullundur Cantonment Police Station. A few hours earlier another report had been recorded by the Sub-Inspector of a village police station

situated three miles from Piplanwala. This report related to the discovery of a number of tell-tale articles by two small boys in the centre of a thick grove of trees. These boys had passed near the spot quite by chance while out grazing cattle. They had at once informed the headman of their village, and the headman had reported the matter to the police late at night on the 6th. The police went to the spot, early on the morning of the 7th, and made an inventory of the articles lying at the spot. This is what they found:

Two blood-stained, used, torn and partly burnt pieces of cloth. Five burnt pieces of leather. A piece of bedding valise to which a big brass buckle was attached. Eight small brass buckles of different types. A small pair of scissors. A blood-stained piece of cloth which seemed to belong to a valise. A piece of quilt printed on the upper side and bearing white, red and green flowers on the other side. A blood-stained portion of shirt made from striped cloth. Six iron nails of the type which hold an attache-case together. Two locks together with iron hooks. A one-anna piece. A bunch of keys containing nine keys on an iron ring. A tin button. Two rivets. A piece of cloth almost completely burnt with four rivets attached to it. Twelve pieces of glass. A small iron rod. An iron frame. A dented tin with a hole in the upper side. A tuft of hair. Twenty-one bones of different parts of a human body and the bone of the lower jaw from which three teeth were missing. The bones contained three ribs of one side, five of the other and one leg up to the ankle. .

The Sub-Inspector removed everything, carefully packing and sealing the various articles in separate bundles. The recovery was immediately connected

with Joginder Singh's disappearance, and in the course of the next twenty-four hours six arrests were made. All three of Bashi's brothers, their cousin Achhru, their servant Tulsi and their friend Mohinder Singh were interrogated one by one and taken into custody. By the evening of the 9th the investigating officer had succeeded in extracting the entire story of the manner in which Joginder Singh was put to death and his body disposed of. Mohinder Singh was the first to break down and make a clean breast of everything. This happened when the police confronted him with some dark-red strains on his **kachha** (under-pants). Every Sikh is enjoined by his religion to observe the sanctity of the five K's. **Kachha** is one of the K's, and all Sikhs wear knee-length drawers or underpants which constitute the sole nether garment in warm weather unless the need for a 'dressy' appearance necessitates the wearing of long trousers. Mohinder Singh, unable to explain the presence of blood-stains on his **kachha**, confessed that he had taken part in the murder of the young lieutenant, and after some hesitation produced the gold ring on which Joginder Singh's name was engraved. He also pointed out a heap of grass in his cattle-shed from under which his cotton shawl also bearing blood-stains was recovered. The others were unable to resist the pressure of interrogation for long, and one by one all made self-incriminating statements. Gurbakhsh gave information which led to the recovery of a dagger from under a heap of bricks and of a shirt from a heap of loose earth. Both articles were found to have stains of human blood on them. His cousin, Achhru, produced a **kirpan** (sword), another sacred K, and his shirt and long trousers from a heap of cattle fodder. These articles, too, had bloodstains upon them. Achhru also produced Joginder Singh's Army pistol from his sugar-

cane field. Inderjit produced a gold bangle on which Joginder Singh's name was engraved.

Since there were no eye-witnesses of the murder, the police thought that the evidence might be considered insufficient by a court of law. They accordingly persuaded Mohinder Singh to accept a conditional pardon and become an approver. To this he readily agreed. He was thereupon produced before a magistrate where he gave a complete account of the murder.

The story that finally emerged was that Gurbakhsh had planned to murder the offending lieutenant, and, for this purpose had secured the assistance of four other persons. It was intended to carry out this plot when Joginder Singh visited Piplanwala in February. The scheme, however, proved abortive, and because Joginder Singh was pressed for time he left the farm-house before the murderers could have a chance of securing him. When Joginder Singh arrived at the farm-house on the 1st of April, Gurbakhsh called Mohinder Singh and Achhru, and it was decided to carry out the nefarious design during the course of the night when Joginder Singh would be asleep in the farm-house. The unsuspecting young man was attacked in the middle of the night and fatally stabbed. What happened next is best described in the words of Mohinder Singh taken from his statement made at the trial:

After Joginder Singh had been so murdered, Inderjit removed a gold bangle from Joginder Singh's arm and I removed his gold ring. Gurbakhsh Singh asked me to keep the ring and I put it in my pocket. We put the dead body in a gunny-bag and tied it up. Gurbakhsh and Surjit went to Piplanwala and brought a valise. Joginder Singh's bed clothes had

become stained with blood and we stuffed these into the valise and the gunny-bag containing the dead body was also placed in the valise. We tied up the bundle, but the blood began to ooze out of the valise. To stop this, we wrapped the quilt and other bed clothes of Surjit Singh round the valise. We tied up the bundle with a rope. Then Gurbakhsh and Surjit went to Piplanwala and brought their tractor. They also brought their servant, Tulsi, in the tractor. The bundle containing the dead body as also Joginder's attache-case were placed in the tractor and we drove to Gurbakhsh's land which is about half a mile away. The sun had not yet risen, but there was enough light to set and identify a passer-by. We met Sadhu Singh and Battan Singh in the way. Achhru and Tulsi went to buy a tin of kerosene oil while we drove on to a brick-kiln where the tractor was parked. After a short while Achhru and Tulsi arrived bringing a tin of kerosene oil. We all drove on and arrived at a grove of trees. We removed the bundle containing the dead body and the attache-case from the tractor and placing them on the ground poured kerosene oil over them. We placed the tin of oil on top of the bundle and set fire to the whole heap. When the fire was fully alight, we left. We had gone only a short distance when we heard a loud explosion.

The loud explosion was due to the sudden combustion of the oil left in the tin.

The case against Gurbakhsh, Surjit, Inderjit, Achhru and Tulsi was tried by a senior member of the State Judicial Service. The trial began on December 30, 1957, and lasted till January 9, 1958. Seventy-five witnesses in all were examined by the prosecution,

and a large number of documents was produced. The most important piece of evidence was the approver's statement. He described the whole manner in which the murder was planned and carried out, as also the steps taken to dispose of the dead body. There was ample corroboration of the approver's testimony in almost every material particular. The motive was sought to be established by the letters exchanged between the young couple and a number of witnesses including Mohinder's father who deposed to having given a charm to Gurbakhsh at his request. The movements of Gurbakhsh and his accomplices on the day of the incident had been observed by several persons. They gave evidence of having seen Gurbakhsh riding his motor-bicycle, with Mohinder sitting on the pillion behind him, late that afternoon, of the tractor being driven in the direction of the place where the dead body was burnt, of Achhru and Tulsi purchasing a tin of kerosene oil early on the morning of April 2. Bashi had fully supported the case against her brother at the time of the preliminary enquiry by the magistrate, but at the trial she sprang a surprise on the prosecution. She began by speaking of the attachment between her and the deceased lieutenant and of the solemn vow which they had recorded and signed with their blood on the New Year's Day of 1956; she identified the letters she had written to him as also the ones she had received from him, but when she was asked about Gurbakhsh's attitude towards the contemplated marriage she began to qualify her earlier story, and said that though her brother was at first opposed to the union between two people who had lived and grown up together in the same village, he had later withdrawn his objection and had never uttered any sort of threat against Joginder. She went on to narrate the events of April 1, and gave a detailed ac-

count of Jogi's visit to the farm-house, her going to meet him there, their trip to Hoshiarpur and the way they had spent the afternoon and evening in each other's company. She had left him at the farm-house at about 9.30 p.m. and Surjit had taken her back to Piplanwala. But, she stated, and this is where she made a complete *volte-face*, that on the morning of April 2, Surjit did not say anything about Joginder having left the farm-house very early, nor did her brother prevent her from entering the house where Jogi had spent the previous night. According to her new version, they were as anxious as she was to find the whereabouts of the missing lieutenant; they sent telegrams, made enquiries and showed their solicitude in the matter. The Public Prosecutor submitted to the court that the witness had turned hostile, blood was thicker than water, her lover could not come back and she was not willing to swear away the lives of her brothers and aggravate the tragedy of her love. He prayed for permission to cross-examine the unfortunate woman. The court granted this prayer, and Bashi was cross-examined at length first by the Public Prosecutor and then by the defence counsel. It must have been a terrible ordeal to be placed on the rack and teased in this manner. Torn between the loyalty to her family and her undying love for her betrothed, she found it impossible to make any sort of consistent statement. There was also the fear of prosecution on a charge of perjury. So her deposition was a bundle of half-truths, second thoughts and contradictions. She had left her parents and gone to live with Jogi's parents. They had received her with all the warmth they were capable of, and she looked up to them for protection and love. 'I am not living in the house of my parents,' she said, 'nor do I want to go back to them. I am living with Master Sant Singh and his

wife as I consider them my parents-in-law, and they have promised to marry me to their younger son Surinder.' It was in this manner that she hoped to find consolation and heal the wounds of her heart. It was pointless, she must have argued, to seek retribution and be a party to the legalised killing of all her brothers.

The prosecution had lost an important witness, but there was still ample evidence to prove the charge of murder. The recovery of the blood-stained clothes and dagger and the production of Joginder's ring and bangle with his name engraved on them were alone sufficient corroboration of the approver's story, and Bashi's resilement made very little difference to the case. The Public Prosecutor claimed a verdict of guilty for all the five prisoners.

The court took time to consider the matter and two days later announced judgment acquitting all the accused persons. The judge took the view that the approver's statement was not completely reliable, the recoveries could have been faked by the police and Bashi's statement being self-contradictory could not be used against the accused.

The State did not accept this decision and preferred an appeal to the High Court alleging that the findings of the judge were perverse and erroneous. To appeal against an order of acquittal is a very unusual proceeding, and such appeals seldom succeed, though the law of India permits such appeals to be instituted. The High Court is always reluctant to reverse a verdict of not guilty and the reason is obvious. The position has been stated very aptly by a judge of the Supreme Court of India. He observed—

It is now well settled that though the High Court has full power to review the evidence upon which

an order of acquittal is founded, it is equally well settled that the presumption of innocence of the accused person is further reinforced by his acquittal by the trial court and the reviews of the trial Judge as to the credibility of the witnesses must be given proper weight and consideration; and the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses must also be kept in mind, and there must be substantial and compelling reasons for the appellate court to come to a conclusion different from that of the trial Judge.

There was no doubt at all that in this case there were substantial and compelling reasons for setting aside the order of acquittal passed by the trial judge. The evidence left no doubt whatever about the guilt of Gurbakhsh and Achhru. There was no reason for rejecting the evidence of the approver and not accepting the recoveries as perfectly genuine. There could be no explanation of these facts consistent with the innocence of the accused persons. The appeal was heard by a Division Bench consisting of my learned colleague Mr. Justice Tek Chand, a Bachelor of Civil Law of the University of Oxford, and myself. After reviewing the evidence and taking into consideration all the circumstances of the case, we came to the conclusion that Gurbakhsh and Achhru were clearly guilty of murder, and Tulsi was guilty of destroying the evidence of murder inasmuch as he had procured a tin of kerosene oil and helped to burn the dead body. With regard to Inderjit and Surjit, we felt that, as a measure of abundant caution, it would be inadvisable to interfere with the order of their acquittal. As a great deal of time had elapsed and the accused persons had been subjected to the

harrowing experience of undergoing first a trial for a capital offence and then a re-hearing of the entire case against them in appeal, we thought that the ends of justice would be met if Gurbakhsh and Achhru were sentenced to life imprisonment and Tulsi to four years' rigorous imprisonment.

FIVE

THE EVIDENCE AGAINST PALVINDER KAUR

The mind is apt to take a pleasure in adapting circumstances to one another, and even in straining them a little, if need be, to force them to form parts of one connected whole; and the more ingenious the mind of the individual, the more likely was it, considering such matters, to over-reach and mislead itself, to supply some little link that is wanting, to take for granted some fact consistent with its previous theories and necessary to render them complete.

Baron Alderson in REGINA v. HODGE

THE grazing fields of Chhat are like the grazing fields of any other village in the plains of eastern Punjab—a dull, featureless stretch of land beyond the village habitation. Arid, unfertile areas alternate with grassy patches, relieved here and there by low mounds covered with scrub and bushes of *asclepias gigantea*, oleander and *ipomaea*. These mounds are the remains of hamlets fallen or demolished long ago. The heaps

of rubble and bricks have been smoothed and rounded by the dust of a hundred years. There is nothing remarkable about the landscape and nothing in it draws the attention of a passer-by. The local residents know that the area is uncultivable and fit only for grazing cattle. An unmetalled country pathway which takes off from the Grand Trunk Road passes at a short distance to give access to the neighbouring village. Outsiders seldom come to the vicinity, and the village boys who drive out the cattle each morning and drive them back each evening pass the time by lying supine under an occasional tree, and hurling obscene abuses at the animals in their charge whenever these begin to stray away. Sometimes the boys play primitive village games or throw stones at a distant target. Nothing exciting or out of the ordinary has happened in the village since the great exodus of 1947, when caravans of refugees moved across the entire countryside, and strangers came in thousands to usurp the lands and houses of the Muslim residents who were leaving their ancestral homes to settle in a country they had only heard of in travellers' tales.

Here, one day, in the beginning of March 1950, Madho, a young lad of 16, was watching a dozen or so buffaloes committed to his charge. Feeling bored with the unrewarding occupation, he challenged another boy to throw stones at a certain bush on a nearby mound. One of the stones flew over and beyond the bush and on coming down sent back a loud metallic clang. Going to the mound he looked into the mouth of a disused well of which he had always known the existence, and saw the top of a large steel trunk showing above the shallow muddy pool at the bottom of the well. A faint unpleasant odour rose up from below, but a well which had remained unused for years could hardly be expected to generate

a savoury aura. Another stone dropped on the box revealed no further information about it or its contents, and Madho hastened to narrate the story of his find to his people in the village.

The headman of Chhat accompanied Madho to the well, and verified with his own eyes the story told by the lad. The headman decided that this was a matter for consideration at a higher level, and a mere village official should not blunder into something which might have far-reaching consequences. The box might contain valuables concealed by a departing Muslim evacuee who hoped to come back and reclaim them when times were more auspicious, for such things were not unknown. On the other hand, the contents might consist of goods looted from abandoned houses and concealed till they could be recovered and carried away in safety. The box might contain evidence of something more uncommon, a dread crime more serious than theft or robbery. The headman warned Madho to abstain from probing any further into the affair, and walked the six miles to the police station to make a report of what he had heard and seen.

The Sub-Inspector in charge of the police station and his immediate subordinate Head Constable (investigation) were away. The Head Constable (clerk), whose duty it is to write up the police station diary and take down reports, evinced little interest in the headman's story. After making a brief note in the daily diary, he advised the headman to trust to his own resources and take the box out of the well. To guard against possible future criticism, the clerk concluded the entry in his book by adding: 'Jata headman has been directed to get the trunk out of the well, and, after ascertaining what it contains, send information to the police station. This is being done

because no investigating officer is present and the station is understaffed.'

By the time the headman returned to the village it was too late to begin operations for the recovery of the mystery box, but early the next morning he got together a party of men including the scavenger and other village menials who are customarily entrusted with tasks of this nature, and repaired to the well. With the help of a stout rope, the box was pulled up. It gave forth a strong stench of rotten carcasses, and when the lid was prized open it was found to contain the corpse of a fully dressed young man. The body was bent double, the head resting between the two feet. It was in an advanced stages of putrefaction, and was greatly bloated by internal gasses.

A message despatched to the police station immediately brought the Sub-Inspector to the spot, and he summoned a doctor to perform the autopsy. This took some time as the Civil Surgeon who was sent for in the first instance was out on tour. The Assistant Surgeon took his own time to reach the spot. The manner in which the dead body had been disposed of indicated murder, but, as the victim's face was past recognition, and the process of decay was rapidly making the corpse more abhorrent every hour, the post-mortem was hurriedly concluded and the body was sent away for cremation. The perfunctory examination provided no clue of the cause of death, and the doctor's report was of very little value in determining the course of investigation. The police officer even omitted to photograph the body for purposes of identification. The clothes of the deceased, which had to be cut away from the swollen body, were, however, taken to the police station together with an iron bangle worn by the deceased. The box and a piece of hessian with which the corpse had been covered

after it was placed in the trunk completed the clues available at that stage.

I have always considered it a matter of regret that doctors in this country do not make a more thorough and careful examination of a dead body suspected or known to have been the result of criminal homicide. Except in the rare case relating to an important victim, the autopsy is carried out with almost reckless indifference to scientific accuracy. I have often had occasion to comment adversely on the conduct of a doctor and the careless manner in which he handled the post-mortem examination. A great deal depends on the accurate and intelligent observation of the condition of the dead body, the nature, size and location of the injuries found upon it, the state of the internal organs, the contents of the stomach and intestines, the presence of some poison or alcohol in the blood or tissues. Yet it is surprising how frequently this basic information is lacking in a murder case. I have heard stories of the actual job of dissection and examination of a dead body being entrusted to the hospital sweeper who calls out the answers to the various questions listed on the printed form intended for the doctor's post-mortem report. The doctor himself sits at a table, outside the mortuary, safe from the stench and infection of the dead body, and notes down the information shouted across to him. Many years ago, when I was young and enthusiastic and apt to work up a measure of righteous indignation, I buttonholed the District Civil Surgeon, and asked him quite plainly if what I had heard was true. Was it possible, I said, that responsible doctors knowing the importance of their evidence in a criminal trial could be guilty of such woeful dereliction of duty as to let a sweeper do their job. How could the wretched man say if the stomach contained digested, semi-digested or undiges-

ted food, how could he venture an opinion on the size and state of the liver and spleen? Could he, in a case of stabbing, say whether the peritoneum had been pierced or if the heart had been injured? Could he carry out the dissection of the dead body with even approximate accuracy? Wasn't it criminal even to think of calling in an illiterate and untrained man to have anything to do with the autopsy? Why, the life of a man might depend on what the doctor had seen and later stated in court!

The Civil Surgeon, who later became a world figure and achieved great distinction in his branch of surgery, listened to my outburst with patience and told me that I was yet raw and inexperienced. Things were not anything like so bad as I thought. It was no doubt true that doctors did not always perform the autopsy personally, especially if the dead body was in an advanced stage of putrefaction. It was highly unpleasant to mess about with a corpse full of maggots, and there was always the risk of picking up some foul infection. Most hospital sweepers had acquired enough skill to dissect a body and could be relied upon to give the correct information required by the doctor. And as for a life depending on what the doctor might say, I ought to remember that for the doctor, too, it was a matter of life and death. And was not a doctor's life more valuable than that of a mere villager who almost certainly deserved to be hanged for his past misdeeds if not for the offence with which he was being charged?

The horror of the situation described by the Civil Surgeon rendered me speechless. So, this was the way the doctor's mind worked! He had no sense of guilt or injustice. And that, as far as he and post-mortem examinations were concerned, was that.

I am told that the practice of letting a sweeper do the autopsy, though by no means uncommon, is not usual, and that a large number of examinations are conducted personally by the doctor in charge. I have no doubt that in the case of the dead body recovered from the steel trunk, the doctor did not entrust the job to any one else. But his examination was far from satisfactory, and in the absence of visible marks of injury on the victim's person he would have been well advised to insist, or, at any rate, suggest a chemical analysis of the viscera and the internal organs for signs of poisoning.

The sum total of the evidence available after the post-mortem examination was this: The clothes of the deceased were of Western style, and the quality of the material was good enough to warrant the assumption that he belonged to the middle or upper stratum of society. The iron bangle on the wrist and a **fifty** (a diminutive turban worn by the Sikhs under the main turban to keep the knot of long hair in place) indicated that he was a Sikh, though there was no hair on his head. There were marks of scorching on the face, and the necktie showed signs of having been partially burnt. From this the police officer concluded that an attempt had been made to burn the dead body, and in the process the hair of the head had been singed or destroyed. The cause of death could not be ascertained. The necessary records were prepared, and the dead body was sent away to be cremated.

This happened on March 12.

The news of the gruesome discovery had, in the meantime, spread through the district, and on March 14 two men arrived at the police station and asked to be shown the clothes recovered from the dead body. One of these men was Roop Singh, the son of the

Chief of Bharoli, and the other was Karam Chand, a servant of Roop Singh's young son, Jaspal Singh. As soon as Karam Chand saw the clothes, he declared that they belonged to his master who had been missing for more than a month.

So, the deceased belonged to a very rich and important family. The matter now immediately acquired the virtue of urgency, and frantic efforts to trace the persons responsible for Jaspal Singh's death were started. When the next few days showed no progress, the local Sub-Inspector was superseded by an Inspector specially sent from district headquarters to handle the investigation.

Almost at once events began to move forward with unexpected rapidity.

The head of the Bharoli family is counted among the local chieftains, though he has never had the status of a ruling prince. The family estate consisted of a block of villages round Bharoli, and the income from the estate before it was resumed by the Government in 1957* was considerable. In 1950 the family enjoyed a great deal of importance, and its members were accorded the respect and attention which are usually considered the due of local aristocrats. The head of the family was Sardar Bahadur Bhagwant Singh, an Honorary Magistrate, who managed his affairs with a strong and capable hand. His second son, Roop Singh, lived at Bharoli, looked after the family estate and received a share of the revenue. The grandson, Jaspal Singh, a good-looking young man of 25, lacked the dignity and bearing of his aristocratic forbears, and conducted himself as the spoilt child of rich parents. He felt that he was entitled to

* By the resumption of Jagirs Act all grants of revenue-free land in the Punjab State were resumed by the Government.

receive more from life than he was obliged to contribute towards it. He could not settle down to any kind of serious work, and his parents thinking that the responsibilities of looking after a wife and family would have a steadying influence on the young idler, arranged a marriage. The bride they chose was an attractive girl of 17, the daughter of a high police officer of Patiala State and the granddaughter of a rich land-owner who had held office as the State Minister for Revenue.

The bride's family was, therefore, in every way as respectable and important as the Bharoli chieftains, and Palvinder Kaur herself was a tall and slim Punjabi with a fair complexion and attractive features. It was noticed that her eyes were particularly remarkable, being large and framed by long eyelashes. She had gone to a good school and had passed the matriculation examination. She was, therefore, in all respects a fit wife for young Jaspal. The marriage was performed in 1945, and the couple took up their residence in the Bharoli house at Ambala. Within a year Palvinder Kaur gave birth to a son, and three years later a daughter arrived. These events augured well for the young people, and it was hoped that Jaspal would mend his irresponsible ways and take his rightful place in the family.

But there were indications that Palvinder Kaur might prove a disintegrating rather than a consolidating force. She was conscious of her good looks, and she soon became aware of her husband's weak character. Jaspal's relations with his father and grandfather became strained, and she was considered responsible for his unfilial conduct and his idle habits. It was thought that she was not giving him the guidance and support a wife should, and was more engrossed in herself than in her husband and children. Mohinder-

pal Singh, a young cousin from her father's side, had come to live with them. Palvinder and Mohinderpal had played together as children and grown up as constant companions. The affection which began as an innocent boy and girl friendship developed into an emotional attachment as the years went by. There were even rumours that the friendship was no longer a guiltless relationship. Credence was lent to this gossip by the fact that when Mohinderpal went to Lahore to pursue his studies, Palvinder Kaur often went there and stayed in the same house as her cousin. Her marriage to the young scion of Bharoli did, for a time, silence the wagging tongues, but very soon they found fresh material for renewed activity.

When the partition of the Punjab took place in 1947, Mohinderpal was forced to migrate to East Punjab, and he sought to rehabilitate himself at Ambala. After a few unrewarding months of unemployment, he obtained the post of store-keeper in a refugee camp. He even showed great concern for Jaspal's lack of occupation and helped him to get a job. Mohinderpal was treated as a member of the family, and was asked to come and live in the same house. Very soon, however, Jaspal noticed that Mohinderpal's interest in him and his wife was neither so altruistic nor so innocent as he wished to make it appear. There were triangular scenes, and Mohinderpal was asked to leave and make his own arrangements for his residence.

He began to live in a separate house, but he continued to visit his cousin, and whenever Jaspal went out of town he spent most of his time with her, staying till late in the evening and sometimes even passing the night in Jaspal's house. The relationship between the cousins was openly amorous, and the servants often overheard them exchanging remarks with a double

entendre and laughing at each other's obscene jokes. They would, in utter disregard of propriety, lie down on the same bed.

The crisis was brought about by a financial transaction about a motor-car which Mohinderpal and Jaspal purchased in partnership. Mohinderpal had conducted the deal, and he was to sell the motor at a profit and share the proceeds with Jaspal. Mohinderpal demanded from Jaspal his share of the initial outlay, and Jaspal, who had been working up venom in secret, now gave vent to his bottled-up sentiments. He told Mohinderpal that he could reimburse himself when the motor-car was sold and also hand over his (Jaspal's) share of the profit. This led to a heated argument between the two men, and when Palvinder intervened on behalf of her cousin, Jaspal flew at her in a rage and slapped her hard across the face. At the same time he told Mohinderpal not to set foot in his house again.

A few days after this incident, Jaspal's father paid a visit to Ambala and went to enquire about his son and grandchildren. Jaspal was not at home, and the servant told him that he had gone to the law court in connection with a case. Roop Singh handed some money to the servant with a direction that it should be given to Jaspal as soon as he returned home, adding that he would come back in the evening after attending to the business which had brought him to Ambala. When Roop Singh returned in the evening, he was told that Jaspal was still out. The next morning he again enquired after his son, and Mohinderpal told him that he had gone to Amritsar to buy a gun. He explained that this information had been conveyed to him by a refugee who had met Jaspal the previous day. Since Jaspal was a keen hunter, the story told by Mohinderpal occasioned no surprise

and Roop Singh thought no more about the matter. The next day he returned to Bharoli.

A few days later he paid another visit to Ambala. Jaspal had not yet returned from his shopping expedition, and when he commented on his long absence Mohinderpal ventured a surmise that Jaspal might have gone to Ferozepore for a shoot. He said that Gurdial Singh Mann, a magistrate posted at Ferozepore, was a great friend of Jaspal and an enthusiastic shikari. Mohinderpal offered to telephone Ferozepore and make certain. A few hours later Mohinderpal again saw Roop Singh and told him that he had made a trunk call to Ferozepore and had learnt that a handsome young man from Ambala had arrived at Mann's house, and, since Mann was going out on tour, he had taken the young man with him. Reassured once again, Roop Singh went back to Bharoli. A week later he paid a third visit to Ambala. Jaspal was still away, and his long absence now began to cause anxiety to the father. Mohinderpal tried to allay his vague fears by suggesting that Jaspal might have made a trip to Delhi, and really, there was nothing to worry about. Roop Singh, however, was not satisfied, and he travelled to Ferozepore and saw Mann. Mann told him that Jaspal had never come to him, and he had not taken him out on tour with him. Nor had anyone telephoned to him from Ambala to enquire about Jaspal.

Roop Singh went to Delhi and visited a number of hotels where Jaspal would be most likely to stay, but the quest yielded no information about Jaspal or his whereabouts. Feeling now completely helpless, he inserted an advertisement in an Urdu newspaper requesting his son to return home, at once, as his continued absence was causing distress to his young wife and children. This advertisement, printed in the

issue of **The Daily Milap** dated March 8, 1950, brought no response, but a few days later the news of the gruesome find from the bottom of a disused well near Chhat reached Roop Singh, and taking Jaspal's servant, Karam Chand, with him, he went to the police station and asked to be shown the clothes recovered from the dead body.

The trial of Palvinder Kaur for the murder of her husband commenced on January 8, 1951, in the court of Mr. Bedi, Sessions Judge, Ambala (now Mr. Justice Bedi and a colleague of mine). The investigation had been somewhat delayed by the fact that Mohinderpal had disappeared and all attempts to find him and charge him at the same time as Palvinder Kaur had proved unsuccessful. He had absconded and nobody knew of his whereabouts. Finally, it was decided not to wait for his arrest, and place Palvinder Kaur alone on trial.

The case had every element of the sensational. The victim was a well-known member of a rich and influential family of landlords who found mention in the catalogues of ruling princes and chiefs of the Punjab State; the accused was a young and attractive woman also belonging to a wealthy and important family; the motive alleged was frustrated love which had taken birth in childhood days and endured through the years. The court-room of the Sessions Judge was crowded to overflowing, and all eyes were turned on the slim and handsome figure standing in the dock and listening to the charge as it was read out by the judge:

...charge you, Palvinder Kaur, firstly that you, together with Mohinderpal Singh on or about the 6th day of February, 1950, did commit murder by intentionally causing the death of your husband,

Jaspal Singh, by administering to him a deadly poison, to wit, potassium cyanide, and thereby committed an offence punishable under section 302 of the Indian Penal Code... and secondly you, Palvinder Kaur, together with Mohinderpal Singh, destroyed the evidence of this murder by concealing the dead body of Jaspal Singh deceased, and throwing it into a disused well, on or about 16th day of February 1950, and thereby committed an offence punishable under section 201 of the Indian Penal Code....

The accused pleaded not guilty to both the charges and the case was opened by the Public Prosecutor. The trial lasted twenty-two days. Thirty-eight witnesses were called by the State. The accused was represented by one of the leading criminal lawyers of the Punjab who attacked every aspect of the prosecution case, and subjected the main witnesses to a gruelling cross-examination. Palvinder Kaur's expression changed from day to day and hour to hour, and though she retained complete self-possession throughout the proceedings, her large long-lashed eyes manifested a variety of sentiments and her handsome face registered in turn injured innocence, righteous anger and seductive charm. Perhaps it was this last which was the ultimate deciding factor in forming the opinion of the four hard-boiled assessors from the villages who assisted the judge at the trial.

The first witness was a policeman who merely deposed to the fact that Mohinderpal Singh was a fugitive from justice and all attempts to apprehend him had failed. The court then adjourned to enable the judge, the assessors and counsel on both sides to see the house where the deceased had lived and met his death, the store-room in the refugee camp where the

box containing the dead body had been kept for a few days before it was taken away and thrown into the well. A visit was also paid to the well on the mound to see the nature of the countryside around and the type of bushes which grew on the mound and concealed the well from the observation of a casual passer-by.

When the hearing was resumed on the following day, the doctor who had conducted the post-mortem examination was called. His evidence was not very helpful to the prosecution, and he cut a sorry figure when the defence counsel began to badger him with questions about the duties of a doctor and the correct manner of performing an autopsy. What emerged from his evidence was no more than what has been stated already. There were no positive post-mortem signs which could suggest poisoning. Potassium cyanide, being a corrosive poison, should have produced hyperaemia, softening and ulceration of the gastrointestinal tract; it should have corroded the lips and mouth of the deceased. The doctor's report was completely silent on these matters. Ergo, it must be assumed that no traces of corrosion were noticed and none were present. Thus the cause of death could not be determined.

There followed a few formal witnesses. The defence did not seriously challenge the identification of the clothes recovered from the dead body nor that the dead body was, in fact, that of Jaspal Singh. Then came Lachhmi, the maid-servant, who was employed by the deceased to look after the children and do odd jobs in the house. She deposed to the events of February 6. Her story was that on that day Jaspal Singh went out in the morning to pay a visit to the courts and returned home at noon. He took his mid-day meal and retired to his room. A little later

'Palvinder Kaur asked me to take the children to the bazaar and buy sweets for the boy and bring some betel leaves and nuts for her'. Another servant, Karam Chand, had already been sent out on some errand, and when Lachhmi left the house the only persons present were the deceased, his wife and her cousin, Mohinderpal. When she came back after making her purchases, she found Palvinder and Mohinderpal standing at the outer door. Palvinder Kaur told her that her husband had quarrelled with her and left the house abruptly after taking with him all the cash and ornaments he could lay his hands on.

Bibi [Palvinder Kaur] asked me to sit outside and watch for the Sardar [Jaspal Singh]. Mohinderpal Singh and Bibi then went in and chained the door from inside. An hour or so later they unchained the door and came out. The next morning Mohinderpal Singh told us that Jaspal Singh had gone to Amritsar to buy a gun. Later we were told that he had gone to Ferozepore, Patiala and Delhi. About ten days after this a jeep brought two Sikhs to the house. I was working in the kitchen. Mohinderpal Singh chained the kitchen door from outside, but looking through a window, I saw him unlock a door beyond the kitchen and carry out a large steel trunk with the help of the two Sikhs. They took it out of the house and placed it in the jeep which was then driven away. Palvinder Kaur told me that the trunk contained articles pilfered from the refugee camp store and I should not speak of the matter to anyone. She said if I disclosed her secret, she would have me sent to gaol.

The defence counsel confined his attack to one or two unusual features of this story, but on the whole the witness stood the cross-examination well.

Evidence was next led to prove that a few days earlier Mohinderpal had sent a camp employee to buy a quantity of potassium cyanide from a chemist for use in developing photographic films and prints. The defence counsel put only a few questions in cross-examination to the chemist and to the camp employee, and stressed the fact that these witnesses had attributed no part to Palvinder Kaur in the procurement of the poison. He held no brief on behalf of Mohinderpal Singh, and it was good strategy to divert attention by throwing the spotlight of suspicion on the absconding man.

Three witnesses narrated the manner in which the steel trunk was taken from the residential house in Ambala to the store in the refugee camp, kept there for a few days and then transported to the mound and thrown into the well. The story told by these witnesses was that Mohinderpal had called them to assist him in disposing of the box. Palvinder Kaur had been present on each occasion, but she had said nothing. The witnesses had noticed a strong unpleasant odour coming from the box and remarked upon it. Mohinderpal had laughed off the matter by saying that a rat must have entered the box and died inside it. They identified the box recovered from the well as the one which had been taken from the house to the store-room and from the store-room to the disused well. Karam Chand, the most important of these witnesses, was the one who had remained in the jeep up to the end (the two Sikhs from the camp had been left behind), and he said that when the box was thrown into the well Palvinder Kaur fired two shots from her gun to drown the noise of the box hitting the

bottom of the well and making it appear to any possible passer-by that the party had come out in the jeep to shoot pigeons. Karam Chand went on to say that when he mentioned the foul odour a second time at the well, Palvinder Kaur told him to keep the whole thing to himself as the box contained a dead body and the lives of four persons depended on his remaining discreet. The four persons she meant were probably herself, her two children and her lover Mohinderpal.

The defence vehemently attacked the credibility of these witnesses, and brought out enough material to cast a grave doubt on some parts at least of their story. It was shown that they did not appear before the police till a late stage of the investigation, and the statements they first made to the police differed in several respects from the evidence given in court. The final story as narrated at the trial was so much more elaborate and contained so much additional matter as to convey the impression of the witnesses having been tutored and made to recite prepared statements. The prosecution argued that the witnesses had been tampered with and bribed to prevaricate at the trial, so that their evidence should weaken the case against the prisoners. On either hypothesis the statements of these witnesses could not be relied upon implicitly.

So far, the prosecution had not succeeded in establishing anything more than an atmosphere of suspicion and prejudice around Palvinder Kaur. Even if the evidence were believed in its entirety, there was a good case against Mohinderpal only. Palvinder Kaur could be credited with the knowledge of the crime, but not with any measure of participation in it. On the eighth day of the trial, the grandfather of the deceased was called. His statement in examination-in-chief was very brief:

On the 11th or 12th of April, 1950, my son, Roop Singh, told me that Palvinder Kaur had admitted to him that she and Mohinderpal had poisoned Jaspal Singh. I went with Roop Singh and questioned Palvinder Kaur myself. She replied that poison had been administered by them and that Jaspal Singh had died at once. Upon my enquiry, she said that the poison had been procured from Ambala through an employee of the camp. After this I sent my son, Roop Singh, to the police.

The defence counsel treated the old man gently and made tentative suggestions that he had omitted to make mention of Palvinder Kaur's confession in his statement to the police. The witness replied that he had made no statement whatever to the police, and so the question of his omitting anything did not arise. The police diaries did, however, contain a statement made by the witness on April 14.

The next witness was Roop Singh, father of the deceased. He described how Mohinderpal had told him that Jaspal had gone to Amritsar to buy a gun, and a few days later that he had gone to Ferozepore. He went on to narrate the story of the enquiries he had made at Ferozepore and Delhi. He mentioned the advertisement in **The Daily Milap**, the identification of his son's clothes by Karam Chand, domestic servant. And then came the most important part of his deposition:

I made enquiries from Palvinder Kaur. She confessed to me that she and Mohinderpal Singh had administered poison to Jaspal Singh and that they had committed a mistake. I told my father that Palvinder Kaur had confessed her guilt. My father accompanied me and he also questioned Palvinder

Kaur. Palvinder Kaur repeated what she had said to me. She added that the poison had been obtained from Ambala through a camp employee. 'I went to Patiala and told the Inspector of Police that Palvinder Kaur had confessed. The next day the police came to Bharoli and took Palvinder Kaur away.

Roop Singh's evidence suffered from the same infirmities as that of his father, Bhagwant Singh. His statement in the police diaries differed in material particulars from his statement in court, and it was somewhat difficult to believe that Palvinder Kaur should have been so ill-advised as to make a gratuitous confession of her guilt, when up to that stage nothing that implicated her had been discovered by the police. What could have possessed her to take this suicidal step? Roop Singh denied that he had held out any inducement or threat to her, and he could give no reason why Palvinder Kaur had confessed to him. The story of the manner in which this very important piece of evidence fell into the hands of the police lacked conviction, but the conduct of criminals is not infrequently marked by a surprising degree of unreason, and anything may happen when the mind is subjected to the stress of a guilty conscience. So it was not wholly unbelievable that Palvinder Kaur had chosen to take this seemingly senseless step to relieve the burden of her mind.

But much less surprising was the statement which Palvinder Kaur made to the magistrate before whom she was produced by the police on April 15, the day she was taken into custody on the basis of the information given by Roop Singh. This statement was proved at the trial, and the Public Prosecutor argued most vehemently that it placed Palvinder Kaur's guilt

beyond all doubt. The statement or confession, as it was subsequently referred to, was in the following terms:

My husband Jaspal Singh was fond of hunting and photography. He began curing the skins of animals he shot, and also started washing the photographs he took. One day in December 1949, Jaspal Singh asked my cousin, Mohinderpal, to obtain the chemical materials needed for developing and washing photographs. Mohinderpal in turn asked Harnam Singh, head clerk of Baldev Nagar Camp, to bring the chemical. Harnam Singh came back and said that the chemical could only be supplied to a responsible government official. Mohinderpal told him to use his (Mohinderpal's) name. Harnam Singh brought the material and gave it to me. I kept it with me. As the chemical was sticky, I dissolved it in water and put it in a small bottle and placed the bottle in a cupboard.

My husband went out on a shoot for two or three days and while he was away he contracted diarrhoea. When he came back he sent for medicine to cure his ailment. One day I put the bottle containing his medicine in the cupboard in which the photographic material had been formerly placed.

I was sitting outside and Jaspal Singh asked me where his medicine was. I told him it was in the cupboard inside. He went in, and by mistake, took the wrong medicine. He fell down and my little son who was standing near him called out 'Mamma, Papa has fallen.' I ran in and saw that he was in agony. He died in a few moments. I went to Mohinderpal and told him what had happened. He said Jaspal's father had just arrived and that we should inform him, Roop Singh's relations with his

son and me were not good, so I did not tell him anything. Out of fear Mohinderpal and I put the dead body into a steel trunk. The trunk remained in our house for four or five days. I told Mohinderpal that if he did not help me, I would be hanged. He removed the trunk with the help of my servants and took it away in a jeep to Baldev Nagar Camp where it was kept for eight or ten days. Then I went to the camp and had the trunk loaded in the jeep, and going with Mohinderpal, threw it in a well near Chhat. I do not remember the date when Jaspal Singh took the wrong medicine. It was perhaps in January.

It is scarcely necessary to comment on this strange statement which was at once exculpatory and inculpatory. The death of Jaspal Singh was attributed to an accidental mistake, but the manner in which the dead body was disposed of was clearly indicative of an acute sense of guilt. How much of her statement was true? And if truth were interlocked with falsehood, could the statement be used against its maker? Palvinder Kaur completely retracted her statement, and at the trial she pleaded that she had been compelled by the police to make it. The statement, she added, was false and bore no relation to the actual facts. So, in the final analysis what did the statement prove?

I suspect that Palvinder Kaur's good looks were the most telling piece of evidence against her, at least, as far as the four hide-bound assessors were concerned. They considered themselves guardians of public morals and upholders of rural traditions, and gave a unanimous verdict of guilty. The judge was not bound to agree with their opinion, or act upon it, but after considering the matter from all aspects he held Palvinder

Kaur guilty of the murder of her husband and awarded her a sentence of imprisonment for life. He abstained from inflicting the capital sentence because of her sex and youth. Or was it because of a lurking doubt regarding the insufficiency and inadequacy of the evidence produced against her?

An appeal was at once filed in the High Court and Mr. Jaigopal Sethi, the leading criminal advocate of Northern India, was briefed on behalf of Palvinder Kaur. The appeal was heard by the then Chief Justice (Mr. Justice Bhandari) and Mr. Justice Soni, and Mr. Sethi argued his client's case with his usual gusto and masterly skill. At the outset he contended that Palvinder Kaur's examination by the trial court was incomplete. He prayed that she be sent for from prison and questioned about a number of matters which had not been put to her. This prayer was granted, and Palvinder Kaur appeared before the Division Bench. Some questions suggested by Mr. Sethi were put to her, but her answers did not carry the case any further. The judges did, however, have the advantage of seeing the attractive wrong-doer and observing her demeanour from close quarters.

Mr. Sethi continued his arguments, and, taking up each piece of evidence, tore it to shreds. The entire case, he protested, had been fabricated and built round the false presumption that a handsome young woman had contracted an adulterous liaison with her cousin. The dice had been heavily loaded against her from the start, and she had been convicted on material which would not warrant the conviction of a person upon the smallest charge. As for the so-called confession, it was nothing more than a piece of fiction put into the mouth of the poor harassed woman whose good looks had turned everyone against her. In any case, what—if it were accepted as true—did the

confession prove? There was no admission of any guilt or crime....

And so on. The arguments continued for several days.

The judges took time to consider the matter and when some weeks later the result was announced it caused not a little surprise. The Chief Justice who wrote the judgment (Mr. Justice Soni concurring) held that there was no evidence to prove the charge of murder against Palvinder Kaur. The testimony of the maid-servant and the three men-servants who claimed to have carried out the trunk containing the dead body and helped to throw it into the well was only partially true. The confessional statement of Palvinder Kaur, too, contained nothing on which a charge of murder could be based. But it was clearly indicative of guilty knowledge and described the manner in which Palvinder Kaur had assisted the actual murderer in disposing of the dead body. She had, no doubt, ascribed Jaspal Singh's death to an accident, but that part of her statement was obviously false and could be separated from the rest which was clearly inculpatory. So she could be convicted upon the charge of concealing and destroying the evidence of murder.

This is how his Lordship set out his conclusions:

To sum up it may be stated that Palvinder Kaur and Mohinderpal Singh were carrying on with each other, that although the deceased witnessed, with patience, the intimacy between his wife and her paramour, there was at least one occasion on which there was a scene and the deceased was compelled to tell his wife to give up her cousin, and to forbid him from entering the house, that Mohinderpal Singh appears to have had a motive to eliminate the deceased, that he purchased a quantity of a

deadly poison for the ostensible object of using it in connection with developing photographs, that this poison deliberately or otherwise found its way into the house of Palvinder Kaur, that the poison was administered to the deceased either by Palvinder Kaur, or by Mohinderpal Singh or both, that shortly before (or may be shortly after) the poison had been administered both Karam Chand and Lachhmi were sent away from the house on one pretext or the other, that in their absence from the premises the body of the deceased was doubled up and thrust into the trunk, that both Palvinder Kaur and Mohinderpal Singh gave it out that the deceased had quarrelled with his wife, had taken away cash and ornaments and had gone away and left the house, that on the following morning Mohinderpal Singh said that the deceased had gone to Amritsar for purchasing a gun, that the same night when Lachhmi told Palvinder Kaur, that the box had been taken away Palvinder Kaur told her to hold her tongue and not disclose the fact to anyone that the trunk contained articles belonging to the Camp, that three days later Mohinderpal Singh and Palvinder Kaur went to Baldev Nagar Camp with the object of removing the box, that when the box was taken to Chhat and pushed into the well, Palvinder Kaur twice fired her gun with the object of preventing the sound of the box attracting the attention of the villagers, that when Roop Singh went to Ambala with the object of making enquiries in regard to the whereabouts of his missing son, Mohinderpal Singh told him that Jaspal Singh might have gone to Ferozepore that he made various other statements which have been found to be false in regard to the whereabouts of the deceased, that when Karam Chand returned to Ambala after

identifying the clothes of the deceased, Mohinderpal Singh took him aside and told him that the lives of four individuals were in his hands, that on the 15th April Palvinder Kaur made a confession in which she admitted that she had in fact disposed of the body of the deceased by putting it in the box and later throwing it in the well. All this leaves no doubt in my mind that she is guilty of an offence punishable under section 201 of the Penal Code (destroying the evidence of murder).

This long catalogue of facts appears very impressive and seems to leave no doubt at all about Palvinder Kaur's guilt, but many of the facts were deposed to by witnesses who, in the opinion of the Chief Justice, had perjured themselves with regard to several matters. However, the Chief Justice pointed out that the rule **falsus in uno, falsus in omnibus** was not of universal application, and in this country witnesses often introduced a number of falsehoods at the behest of the prosecution or the defence or to serve a purpose of their own, so their evidence could not be rejected merely because it was in part exaggerated or untrue.

The court accordingly convicted Palvinder Kaur and sentenced her to seven years' rigorous imprisonment. The judges refused leave to appeal to the Supreme Court, but special leave was granted by the Supreme Court itself, and the matter was once more argued at great length. Mr Sethi again represented Palvinder Kaur.

He characterised the judgment of the High Court as erroneous and illogical inasmuch as Palvinder Kaur had been convicted of destroying the evidence of murder although there was no evidence of any murder having been committed at all. Many other points

were urged before their Lordships of the Supreme Court, but this was the argument which ultimately prevailed with them. They observed:

In our judgment, there is no evidence to establish affirmatively that the death of Jaspal was caused by potassium cyanide, and that being so, the charge under section 201 I.P.C. must also fail. The High Court in reaching a contrary conclusion not only acted on suspicions and conjectures but on inadmissible evidence.

Their Lordships quoted the passage set out at the beginning of this chapter from Baron Alderson's judgment in **Regina v. Hodge**, and pointed out that the doctor's evidence negatived the allegation of Jaspal Singh's death having been caused by the administration of potassium cyanide. They went on to say that Palvinder Kaur's statement 'taken as a whole was of an exculpatory nature. It not only exculpates her from the commission of an offence but also exculpates Mohinderpal. It states that the death of Jaspal was accidental. The statements does not amount to a confession and is thus inadmissible in evidence.'

Palvinder Kaur was accordingly acquitted and set at liberty. There could be no doubt at all that on the evidence produced in the case this was the only possible conclusion, but the public had a misgiving that the ends of justice had not been truly served.

SIX

IMPERFECT ALIBI

KARTAR SINGH flashed his angry eyes at the men sitting round him.

'So, none of you will do it?' The deep stentorian roar of his voice fell upon the small assembly like a roll of thunder bursting overhead and reverberating all round the walls of the hut. 'Ungrateful dogs!' he shouted at them, 'you call yourselves men? The villagers are afraid of you. They think you are desperate characters, robbers, murderers, dacoits. If they could only see you now!'

He stood up, and with a jerk of his legs pushed back the charpoy on which he had been sitting. Standing upright in the small courtyard of his hut, he presented a formidable aspect of awe and power. The men sitting on the ground cowered before him and flinched at every gesture he made. If any of them had seen the police records of their police-station, they would have been struck by the accuracy of the following note :

Kartar Singh, **lambardar**, and member of village **panchayat**. Age 42, wheatish complexion, height 6 feet $\frac{1}{2}$ inch, left eye blind, said to be the result of an accident in childhood, beard black with a few grey hairs, worn straight and well-brushed. Robust and well-built figure. Walks with the slow swinging roll of a wrestler; talks loudly with energy and authority, in a deep thunderous voice; takes opium occasionally and alcohol frequently, knows Urdu;

always wears a clean white mill-made sheet knotted tightly round his waist and falling loosely over his legs and feet, a white homespun shirt and a light green turban.

The subject of this word-picture heaved his massive body with an ease born of confidence and physical strength. Standing in front of each man in turn, he hurled words of contempt and abuse at him, as if he were lashing him with a whip.

'Chanan Singh, don't come crawling again to me for protection when the police are chasing you. And you, Gurnam Singh, do you remember what happened after that dacoity in Veroke? Where did you hide your filthy, stinking body for a whole week after? Joginder Singh, you incestuous dog, come to me again and say, "Lambardara, keep my gun, the policewalas have found out about me!" And, as for you, Karnail Singh, will you come to me again to have your mother raped? All of you come here to eat and drink when the policewalas are after you with their great big stick to ram your behind, but when it comes to...'

The door opened, and three men came in. One of them, Karam Singh, was the trusted servant of Kartar Singh and had been in his service for over two years now. The other two were strangers to Kartar Singh, but, since they were ushered in by Karam Singh, he stopped short in his vituperation and bade them a smiling welcome.

Karam Singh was no ordinary man. Though he occupied the humble status of a village menial and had been born, in a low-caste family, he was, in

appearance and reputation, quite as remarkable as his master. Tall, just a shade under six feet, and well-built, he possessed a hard muscular body, completely free from adipose tissue. His complexion was dark and his features regular, almost handsome. He wore his hair short and shaved his beard. His dark bushy moustachios were greased and twisted upward in a roguish curl. His large almond-shaped eyes were dark brown with a black fringe of long curly lashes which rested on his cheeks and reached up to his brows when the eyes were fully open. When he smiled his teeth were seen to be white and spaced out. He was thirty-five years of age and had served for six years in the army. The police records showed that he was a bad character and had been suspected of taking part in two burglaries, one dacoity and one murder, but lack of evidence had saved him from being prosecuted. He drank heavily, abducted women and wore khaki clothes. His father had died when he was still a child, and his mother had left home and gone to live with a man who had been her lover during the life-time of her husband. One of his brothers had become a **sadhu** and lived as a hangeron of some shrine in Nabha. He himself had run away from home at the age of 10 and earned his living by working as a menial for one **zemindar** after another. In between he did a little thieving if circumstances were favourable.

He had come to Kartar Singh two years ago and sought his help in the matter of a small dacoity. Kartar Singh had been touched by the hunted-animal look in his eyes, and had employed him as a field labourer and menial servant. He had provided him evidence of an alibi which the police had accepted. Karam Singh showed his gratitude by giving of his best, in service and loyalty, to his master. The master

also realised his true worth and promoted him from the position of a mere servant to that of a trusted agent. So, Karam Singh came to manage his master's affairs in a rapidly increasing measure.

The two men were in strange contrast to one another, and yet each provided a fitting complement to the other. Kartar Singh had the dignity and status of a lambardar and a sarpanch; Karam Singh was no more than a village menial. Kartar Singh's appearance was coarse, powerful and redoubtable, there was authority and conviction in his very voice; Karam Singh was good-looking, sleek and nimble, he had a soft and persuasive voice. Kartar Singh frequently bullied people into doing things; Karam Singh achieved his ends by intrigue and seduction. Kartar Singh was formidable, Karam Singh efficient. Master and servant, principal and agent made an admirable team.

So, when Karam Singh entered the courtyard accompanied by two strangers, Kartar Singh knew that the men he wanted for his job had come. He addressed himself to the two strangers and explained the whole situation to them in detail, enumerating the complete list of his grievances against Harjeet Singh and Gajjan Singh and the men of their party. He knew that they must already have heard the whole story from Karam Singh, but he wanted to go over the various items for his own satisfaction and to convince himself once again of the justness of his decision. As he proceeded with the narrative of the crimes perpetrated by his enemies, his voice, whipped by masochistic excitement, swelled and rose to a crescendo till his listeners could hardly concentrate their attention on the words he uttered, so overpowering was the wonder and fascination of the mag-

nificent clamour which poured out of his powerful gorge and filled the little courtyard.

More than thirty years ago, he told them, the father of Harjeet Singh had murdered Nandu, a supporter of Kartar Singh's father. A few years later Gajjan Singh had beaten Kartar Singh himself and both his parents. In 1943 Harjeet Singh had come with his friends and relations and again attacked Kartar Singh. He had saved himself by running away. On two more occasions Harjeet Singh's party had assaulted and beaten his men, the second time they claimed a victim by shooting down a personal friend of Kartar Singh, while he himself stood by helpless. Soon after this the police took action against the ringleaders of both parties and had them bound over to keep the peace. Each man had to furnish a surety in the sum of Rs. 5,000/- which was liable to forfeiture if he became involved in any kind of fight or violent brawl. Fear of losing so much money acted as a deterrent to a fresh outbreak of hostilities, and an attempt was made to bury the hatchet and enter into a compromise, but the peace was short-lived and once again bickerings and attacks and reprisals started.

He had a wife, Kartar Singh went on, not Dhanno, the angel who blessed his home and made him happy, but another, a daughter of Satan who had blackened her own face and his by running away with Niranjan Singh of all people. Niranjan Singh who was a close associate of Harjeet Singh and who continued to keep this infamous woman in his house and flaunt his misdeed by speaking of it boastfully and with much embellishment.

Kartar Singh used to be the headman and **sarpanch** of the village. As **sarpanch** he presided over the village court and had control of the **panchayat** funds. Besides occupying a position of dignity and import-

ance, he wielded a great deal of authority. Harjeet Singh, his enemy, was also a **panch**, but he was subject to the chairman's authority. In June 1953 new elections took place and Harjeet Singh was elected **sarpanch**. This reversal of their respective roles was a source of mortification to Kartar Singh; but worse was to follow. Harjeet Singh instituted complaints against Kartar Singh, alleging that he was refusing to hand over the property and funds of the **panchayat** to him (Harjeet Singh), though as **sarpanch** he was entitled to its rightful possession. He also said that Kartar Singh had not accounted for nearly a thousand rupees which he had misspent out of the **panchayat** funds.

The bitter conflict between the new **sarpanch** and his predecessor provoked several peace-loving villagers to send up a memorial to the Government suggesting the dismissal of the entire **panchayat** and the holding of fresh elections. These were men who did not wish to get embroiled in the war between the two factions.

Since the formation of this **panchayat** [they said] the general public of the village has been suffering a great deal. Due to their party frictions and differences the villagers are in great distress. The present **panchayat** has not done anything for the good of the village since its election. All that the panches have done is to incite the people of their own party against the people of the opposite party. False complaints and cases are being registered by members of each party against their respective enemies. To be brief, we wish to say that this kind of **panchayat** raj will lead us to hell. We do not want this **panchayat**, and earnestly request, in the interests of justice, that the **panchayat** be superseded and a fresh election held.

Kartar Singh knew about this petition, for some of the signatories belonged to his party. It had even been suggested by Harjeet Singh that the whole thing had been engineered by the disappointed **ex-sarpanch**. Kartar Singh vehemently denied that he had a hand in it, but he spoke of the matter now to the small and sympathetic audience in his courtyard, addressing himself more pointedly to the two strangers.

He paused to take in the effect of his long discourse. His listeners were silent and merely nodded their approval of the indignation felt by the speaker, and the urgent necessity of applying a corrective to the waywardness of Harjeet Singh's party. Kartar Singh gathered the white sheet round his loins till his massive buttocks and fat thighs strained against the drapery, and sat down on the charpoy. He began to speak again:

'And what happened two days ago? You were there, Karma, you saw and heard. Bhola Badmash and the friends of his bottle openly abused me in the village bazaar. They had drunk Harjeet Singh's liquor and had been sent to slander me. I would have finished them off there and then but for the arrival of the head constable who took them away.'

Suddenly he flared up. 'Insult upon insult, injury heaped upon injury. The cup of suffering is flowing over and my patience is exhausted. If I do not strike now, I cannot show my face in the village. Am I a **lambardar** and a **panch**? Was I a **sarpanch** only a few months ago. They are planning to destroy me utterly, utterly, utterly....' He ended on a high note and looked at Karam Singh.

Karam Singh came forward and sat down on the ground at his master's feet. He began to press his legs, kneading and pinching the fleshy limbs up and down.

'Lambardarji, I am ready to serve you, and these

two men have come with me. One more man I have spoken to; he, too, will come.'

The next day, which was April 5, 1954, Kartar Singh remained closetted for a long time with Karam Singh and his two companions. There were whispers in the village that something terrible was being planned, and the peace of the residents would be shattered once again by fights, shootings and murders. But the villagers knew that they had no means of averting disaster, and those who heard the whispers or conjectured what might happen in the next few days kept their own counsel and braced themselves for the impending calamity.

On the afternoon of April 6 Kartar Singh and Karam Singh were seen leaving the village and going in the direction of the railway station. One of the villagers saw Kartar Singh standing in front of the booking-office window and buying two third-class tickets for Agra. Another villager saw them get into the train for Ludhiana, where they would have to change in order to continue their journey to Agra. The tension in the village eased a little when this piece of news became known, and most people thought that the evil day had been put off. They hoped it would be a long time before Kartar Singh executed whatever diabolical plan he had hatched to get even with his enemies. There were a few who were sceptical.

Moga is a town near the Pakistan border. It is known throughout the Punjab for two things, Dr. Matha Das' Eye Hospital where miracles of ophthalmic surgery have been performed, and the turbulent nature of the jat tribes who live in the sub-division of which it is the headquarters. After the partition of the country in 1947, hundreds of thousands of refugees who came across the border to Ferozepore poured into the

sub-division and added to the lusty and lawless behaviour of the people, making them even more disrespectful of the law than before.

At Moga there are several resident magistrates, and a strong force of police has been posted there to cope with the numerous murders and dacoities which are a permanent feature of village life in the sub-division. In addition to the usual complement of constables, head-constables and sub-inspectors, there is a contingent of mounted police and a special armed police guard.

So when at 7.40 p.m. on April 8, 1954, Sub-Inspector Hazara Singh received a laconic telephone call, he rose to the occasion with confidence and alacrity. There was always the possibility that the information conveyed to him over the wires was false, and that he might set off on a wild goose chase; but he had to take that risk, for he could not afford to remain inactive if the mysterious person who rang him up had spoken the truth. From the receiver held against his ear he had heard a male voice say:

'Harjeet Singh, **sarpanch**, and Gajjan Singh have been murdered by members of the opposite party in Singhawala village.'

The message was repeated in the same words like a lesson recited by a child who is not quite sure that his cleverly learnt piece was heard the first time. And then the sound of a click indicated that the speaker had hung up. He had not revealed his identity, nor given any details of how and when the murders were committed.

Hazara Singh got together a posse of constables and, accompanied by an Assistant Sub-Inspector of Police, left for Singhawala. He called out the mounted police force and left instructions that the armed police guard should follow him immediately. He knew the past

history of the two factions and was taking no chances, also he wanted to make an appropriate exhibition of his energy and zeal.

The village of Singhawala is barely five miles from Moga, and, travelling by jeep, Hazara Singh reached there before eight. He went straight to the house of Gajjan Singh and saw that his worst fears were only too well founded. Gajjan Singh lay murdered in the courtyard of his house, and near the dead body sat his wife and son weeping and wailing their loss. Gajjan Singh had gunshot wounds with charred edges, indicating that his assailants had fired at him from very close range. In the courtyard was also present Niranjan Singh, the man who had seduced Kartar Singh's wife and was keeping her in his house. He, too, had been fired at, but had escaped with a slight wound in one of his legs. In the village lane outside, not far from Gajjan Singh's house, lay Harjeet Singh's dead body, riddled with large deep holes caused by guns fired at point-blank range. A number of empty cartridges strewn about the two dead bodies showed that the assailants had reloaded their guns and fired several shots.

There could be no doubt about what had happened. The murders were committed openly and deliberately at a time when there was ample daylight to permit identification of the culprits, and in the presence of witnesses who were available to tell their story. Niranjan Singh bore on his person unmistakable evidence of his having been present when the shots were fired, for one of the pellets lay embedded in the calf of his leg. Gajjan Singh's wife and son were natural witnesses of an occurrence that took place in their own house.

There was complete unanimity on every point. This was nothing remarkable in the circumstances of the

case, but it gave rise to a misgiving in the mind of Hazara Singh, for he thought that, as in so many other cases which had passed through his hands, the details of the story might have been evolved after discussion and deliberation to give an air of truth to the narrative; but as he proceeded with his enquiries and checked and cross-checked all the statements, he became convinced that the witnesses were telling the truth and the whole truth. What they said was this:

Gajjan Singh was sitting in the courtyard of his house chatting with his friend, Niranjana Singh, while his wife and son sat nearby. As the sun was about to set, Karam Singh, accompanied by three other men, appeared in the doorway. He and two of his companions were carrying guns, and the fourth man was armed with a battle-axe. Karam Singh and one of the gunmen advanced into the courtyard and, without uttering a word, fired five or six rounds at Gajjan Singh and Niranjana Singh, while the third gunman and the man with the battle-axe stood in the doorway. Gajjan Singh's wife and son ran inside a *kotha*, and Niranjana Singh sought the shelter of a low wall which enclosed the space reserved for cattle. The whole incident was over in a few seconds, and when the survivors peeped out a moment or two after the firing had stopped they saw that the courtyard was empty save for the lifeless body of Gajjan Singh lying stretched out near a dark pool of blood in the middle of the courtyard.

The assailants had run out and made their way towards Harjeet Singh house. When they came to the point where the lane ended to make a T-shaped junction with the main village street, they saw Harjeet Singh and his son returning from the fields with a cart-load of gram chaff. Harjeet Singh jumped down from his high perch on the cart and tried to run away, but

Karam Singh and his gunmen were too quick for him. They fired several shots at him in quick succession and saw him crumple up into a convulsing heap and then lie prone and inert. The miscreants then ran away and no one could say where they had gone to.

There were one or two remarkable points in this story. All the witnesses were agreed that Kartar Singh was not among the assailants, although it was he who most desired the liquidation of his enemies, Gajjan Singh and Harjeet Singh. Indeed, they all said that Kartar Singh had not been seen in the village for the last three or four days, and it was believed that he had gone to Agra where he was part proprietor of a transport firm. Then again Karam Singh had been recognised as the leader of the assassins. He had made no attempt to conceal or muffle his face. Finally, his three companions were strangers to the villagers of Singhawala. The witnesses could describe them, but could throw no light on the question of their identity.

While these facts convinced the police that the witnesses were telling the truth—for they could have easily named Kartar Singh, honestly believing him to be one of the culprits or because they had here a golden opportunity to get even, once and for all, with their sworn enemy—the facts also posed some difficult questions. Who were the three strangers with Karam Singh, and if they were not declared opponents of Harjeet Singh's party, why had they taken part in the commission of this horrible crime? The first thing to do, however, was to find Kartar Singh and Karam Singh.

This proved to be not such an easy task as the police at first imagined. Kartar Singh's house was locked up and there was no sign of him or any member of his household in the village. There was evidence

to show that his wife, Dhanno, was at home shortly before the murders were committed. She and her brother, Bachan Singh, who belonged to a neighbouring village, had been seen standing in the doorway talking to Karam Singh. One villager said he had seen strangers coming out of the house shortly before sunset. But when the police arrived at 8 p.m. neither Dhanno nor Bachan Singh was to be found anywhere. A constable sent posthaste to Bachan Singh's village returned in the morning to report that Bachan had left home the previous morning and had not since been seen or heard of.

The two trials which had to be followed up were obvious. In the first place Dhanno and Bachan Singh must be traced and located, for they would know who were Karam Singh's accomplices, and where they had gone to. Sub-Inspector Hazara Singh would know how to get the necessary information out of them, once they were brought before him. Secondly, a search must be made for Kartar Singh at Agra. Kartar Singh held a licence for a shot-gun, and it was almost certain that this gun had been used by one of the assailants. It was known that Kartar Singh's partner in the transport business at Agra was one Kundan Singh.

There followed days of fruitless, exhausting labour, when many clues and scents were picked up and followed, only to be abandoned because they proved false and misleading. Villages were visited, houses were searched, suspicious characters were interrogated. The police used all the weapons in their armoury—persuasion, cajolery, promises, threats, intimidation—but all to no purpose. Dhanno and Bachan Singh had disappeared into thin air. At Agra no trace could be found of Kartar Singh or his partner, Kundan Singh. The premises of the transport company wore a deserted air. The trucks had all vanished. The sign-board

bore a new name. The entire concern seemed to have been effaced out of existence.

The police proclaimed Kartar Singh a fugitive from justice, and initiated legal proceedings in order to attach his property and confiscate it, if he did not put in an appearance and submit himself to the due process of law.

Seven fruitless days of unrewarding efforts went by. Then on April 15, Hans Raj, Assistant Sub-Inspector who was making enquiries at Agra, had a brain-wave. He remembered that Kartar Singh and Karam Singh had been observed buying tickets for Agra on the evening of the 6th. A new and hitherto unsuspected significance attached to this known fact. Karam Singh was certainly present at Singhawala on the 8th, all the witnesses had said so. Therefore the journey to Agra, if performed, must have been undertaken solely with the object of creating evidence of alibi. The best alibi and one that can be proved most easily and most convincingly is to court arrest and be in the custody of the police at the time the crime is committed.

So Hans Raj went to all the police stations in Agra and enquired if any Punjabi Sikh had been arrested on the 7th or 8th of April for a minor offence. He drew one or two blanks, but at the Lohar Mandi **thana** he found what he was looking for. On April 8, at 9 p.m., two Sikhs were seen behaving in a disorderly manner in the middle of the busiest cross-roads of the town. They were both in a state of extreme drunkenness, and were in no condition to disclose their names or give any other particulars relating to themselves. They were marched off to the police station and detained in the lock-up for the night.

In the morning they were sober, though suffering from the usual after-effects of an inordinate consumption of alcohol. They stated that they were Kartar Singh, **lambardar** of Singhawala and Gurbachan Singh, son of Kundan Singh, also of Singhawala. The offence for which they had been arrested was bailable, and both of them were released on furnishing the necessary sureties. The bonds executed by them bore their thumbprints, and were available for examination. The offenders had been directed to appear before a magistrate on the 10th, but they failed to attend the hearing of the case against them.

The trail was once more lost, but something had been gained. Kartar Singh had deliberately and carefully prepared a perfect alibi for himself, and there could be no question of his having been present at the scene of the murder on the evening of April 8, or of his having taken part in the crime. But the very fact of his having such a perfect alibi indicated his complicity or, at any rate, his foreknowledge of the murders. Also Karam Singh had no alibi. He must have used his master's gun, and this fact would be enough to hang both Karam Singh and Kartar Singh. But where were they?

On April 19 Kartar Singh had to appear in the court of a magistrate at Moga in another case. A police officer remained watching this court the whole day. Kartar Singh did not put in an appearance. A telegram was received, saying that he had been taken ill and a medical certificate would follow. On the 20th the post brought a medical certificate signed by Dr. Vidya Bhushan of Meerut. This clue was immediately followed up, but at Meerut there was no doctor named Vidya Bhushan. The police obtained a list of the medical practitioners of Meerut. The name of

Dr. Vidya Bhushan was not in this list, and none of the local doctors had ever heard of him. Once again Kartar Singh had thrown a red-herring across the trail and eluded his pursuers.

But the police had no intention of abandoning the chase. They spread their net carefully and over a wide area. They are proverbially ruthless with offenders, but show a deep and sympathetic understanding of the wretched informer who comes to them in confidence to betray his friend or his enemy. They do not despise him or hold him up to ridicule. He gets his reward and his anonymity is guaranteed. His name does not find mention in the police diaries and his identity remains a complete secret. Kartar Singh had not appeared before the Agra magistrate to answer the charge of drunkenness. Neither he nor his partner in business was seen anywhere near the office of the transport company. No one seemed to own the new concern with the new name freshly painted over the signboard. But an informer came to the police one evening and said that on the 28th, Kartar Singh and Kundan Singh would go to the office of the Regional Transport Authority, Agra, to renew the permits of their trucks. He added that Karam Singh was also in Agra.

The quarry was at last within sight, and by mid-day of 28th both Kartar Singh and Karam Singh were in police custody.

Kartar Singh answered all enquiries in his loud and resonant voice, wearing all the while a look of injured innocence. He said he had left Moga on the evening of the 6th, and come to Agra to attend to the transport business. He had brought his gun with him, and as there was something wrong with the trigger he had given it for repairs to a firm dealing in

firearms at Agra, on the morning of the 8th. He had been indiscreet enough to drink too much liquor—it was all the fault of his partner Kundan Singh—and had found himself in the police lock-up when he came to his senses. On the 9th he was released on bail and after a few days he went to Meerut to represent his case before the transport authority. There he had fallen ill and had been unable to go to Moga on the 19th. As soon as he recovered he came back to Agra and had remained there till the police arrested him.

He went on to say that he knew nothing about what had happened to Harjeet Singh and Gajjan Singh. He couldn't say that he was sorry, but . . . well . . . God had willed it so. But how could he have had anything to do with the affair? He explained the change of name on the signboard of the transport firm by a shrug of his shoulders and complained of the iniquities of the income-tax department. How else could they evade the unjust levy except by changing the name of the company. By a strange coincidence, the trucks were all away on long journeys carrying goods to different parts of the country.

Karam Singh also protested his innocence and his ignorance of the whole unfortunate affair. With a disarming ingenuousness he admitted his presence at Singhawala on the 8th, but insisted that he had left the village in the afternoon and come to Agra.

Had he any evidence of his presence at Agra?

No, it was his misfortune that all his attempts to procure documentary evidence of alibi had failed. He could produce witnesses, but would the police believe them?

Why did he make any attempt at all, if he knew nothing of the murders?

Because he had a feeling, a sort of premonition, that something untoward was afoot. He had noticed sus-

picious characters, strangers to him, prowling about the village. So he had run away lest he became involved in a criminal case. As it was, he found it difficult to live down his past, and another case, even a false one....

So, Karam Singh went on in his plausible, seemingly innocent manner. He opened his large eyes till the long curly lashes were outlined against the smooth rounded flesh of his cheeks. He looked at the Sub-Inspector with a soulful expression, till the latter turned away in embarrassment. The police could get no further with him, but one thing was clear—he had no alibi and four-eye-witnesses were ready to swear that he had shot dead two men. Kartar Singh's statement about his gun was found to be true, and a dealer in firearms produced the gun in question.

In the meantime events had progressed satisfactorily at Moga. The police had apprehended two men, Sukhan Singh and Bhag Singh, who were believed to be Karam Singh's accomplices. A third man, Bikker Singh, was killed in the course of an encounter when he opened fire on his pursuers.

Dhanno and her brother, Bachan Singh, were found at the house of a relative who lived in a village fifty miles away, but nothing of consequence could be established against them, and after a brief interrogation they were allowed to go away.

Four persons were sent up for trial, Karam Singh, Sukhan Singh and Bhag Singh were charged with the actual offence of murder and Kartar Singh with its abetment. The prosecution as a measure of abundant caution produced evidence of Karam Singh's presence in Singhawala on April 8, independently of the testimony of the four eye-witnesses. This consisted of

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the statements of four witnesses and an entry in the account-book of a village shopkeeper, Sudha Mal. The witnesses were Achhar Singh, **tehsildar**, who said he had called and spoken to Karam Singh on an official matter, Sudha Mal who had bought a carload of rape-seed from Karam Singh on that day, his son, Benarsi Das, who made an entry relating to the transaction in his father's **bahi**, and Pratap Singh, who claimed to have seen Karam Singh coming out of the **lambardar's** house. This evidence was wholly independent and above reproach.

Karam Singh (it will be remembered) had, when interrogated by the police, admitted his presence in Singhawala on April 8, and the evidence of these four witnesses seemed at first somewhat superfluous, but towards the close of the preliminary enquiry by the magistrate Karam Singh sprang a surprise which proved the wisdom of the step taken by the prosecution. In answer to the magistrate's enquiry, he said that on the day of the occurrence he was at Agra. He produced at the same time an affidavit to which he had sworn at Agra on April 8. The affidavit was attested by Mr. Sharma, a magistrate of Agra, and the document bore the official seal of his court. To add to the discomfiture of the prosecution, Karam Singh also handed over photostat copies of the document by way of a gentle hint that if anyone tried to steal or destroy the original affidavit, he could produce facsimile copies of it from negatives which were in the safe custody of someone who was on his side. He named three witnesses who, he said, would depose to his presence at Agra on April 8.

These witnesses were called and examined in the court of session. Their story was that Karam Singh wanted to apply for a motor driving licence. Every application for such a licence must be accompanied

by an affidavit stating that the applicant had no previous licence, and if one had been obtained by him on a previous occasion the particulars of the old licence were to be given. Karam Singh swore to the fact that he had no previous licence, and his affidavit was attested by a magistrate.

One of the defence witnesses was a lawyer of Agra who told the court that Karam Singh was introduced to him by an old client of his, Gurdial Singh. The lawyer appeared before the magistrate to testify that the man swearing to the affidavit was Karam Singh. He admitted in cross-examination that he had, never before that day, met Karam Singh, nor had he seen him since. Another witness was Gurdial Singh, who said he knew Karam Singh well and had been present when Karam Singh swore his affidavit in Mr. Sharma's court. The third witness was a court clerk who identified Mr. Sharma's endorsement on the affidavit, but could say nothing about the deponent's identity as he was not Mr. Sharma's clerk on the relevant date.

No attempt was made either by the defence or by the prosecution to have the deponent's thumb-impressions (there were two of them) on the affidavit compared with Karam Singh's thumb-impression. Nor did the Sessions Judge take the trouble to call a fingerprint expert and elucidate this point.

The judge, however, came to the conclusion that the alibi had not been proved, and that someone could easily have impersonated Karam Singh. The lawyer might well have made a mistake, and Gurdial Singh was admittedly a friend of Karam Singh; he would not hesitate to perjure himself. In any case the thumb-impressions had not been proved to be those of Karam Singh, and therefore the defence plea of alibi had failed. Karam Singh was accordingly convicted and sentenced to death.

The case against Karar Singh was based solely on his enmity and his peculiar conduct on going away to Agra and becoming drunk on the day the murders were committed. This was not considered enough to hang him. There was always the possibility (and this point was stressed by the defence) that he came to know of someone else's plan to murder his enemies, and took steps to establish his own innocence. In criminal cases, if a reasonable doubt arises in the mind of the judge, the accused person must be given the benefit of that doubt. As regards Sukhan Singh and Bhag Singh, there was nothing against them except the somewhat unsatisfactory evidence of identification. All the witnesses were not able to identify them correctly.

So these three persons were acquitted.

Karam Singh appealed to the High Court, and his counsel found no difficulty in picking big holes in the Sessions Judge's reasoning. It was obvious that the matter had not been examined with the care it deserved. Mr. Sharma, the Agra magistrate, had not been called to elicit the circumstances in which he attested the affidavit; a fingerprint expert should have been summoned to compare the prints on the affidavit with Karam Singh's thumb-impression. The affidavit was recorded on sheets of impressed paper which had been purchased from a stamp-vendor of Hathras—there was the stamp-vendor's endorsement to this effect on the back of each sheet. This man could throw further light on the matter. Might it not be argued that the evidence at the trial gave rise to a **reasonable** doubt regarding Karam Singh's guilt.

The High Court has ample powers in law to call fresh evidence if such a course be considered neces-

sary in the interests of justice. It was clear that in this case the interests of justice required further clarification of a most important issue: Was Karam Singh at Agra on April 8 or not? If he was at Agra, 334 miles from the scene of the murders, he could not be held guilty.

The burden of proving the plea of alibi lies on the accused person, and in this case there were significant gaps in the defence evidence, though, of course, the burden of proving the commission of the crime charged remains always on the prosecution. But it would be a perversion of justice to hang a man because he had omitted to call one or two witnesses. Karam Singh had, in unequivocal terms, raised the plea of alibi; he had produced evidence which showed that the plea was not without substance. Should the High Court not be completely convinced of its falsity before confirming the sentence of death?

My colleague and I who heard he appeal adjourned the case, and called Mr. Sharma and the stamp-vendor of Hathras. We also called an expert from the Phil-laur Fingerprint Bureau.

The whole truth then came to light, and the seemingly perfect alibi was proved to be imperfect. The self-induced drunkenness of Kartar Singh, his subsequent evasion of the police and the drawing up of Karam Singh's affidavit, were all parts of a diabolical and cleverly conceived plan to murder Harjeet Singh and Gajjan Singh and escape the consequences.

The murders were committed by Karam Singh and three hired assassins who belonged to a distant village and were strangers to the people of Singhawala. Kartar Singh and Karam Singh left their village on the 6th ostensibly for Agra. They detoured at Hath-

ras on the morning of the 7th. There Karam Singh bought the two stamp-impressed papers from a stamp-vendor who knew him and who could, therefore, be relied upon to give evidence of identification if called. The affidavit consisting of one sentence, 'I solemnly declare on oath that I have never before applied for a driving licence anywhere, nor do I possess such a licence', was drawn up and Karam Singh placed his thumb-impressions on it. He then returned at once to Singhawala. Kartar Singh proceeded to Agra, taking the affidavit with him, and secured the services of Gurdial Singh and another person who impersonated for Karam Singh. Thus he procured what seemed un rebuttable evidence of Karam Singh's alibi. He deposited his gun with a dealer in firearms, obtaining a receipt from him. Towards evening he and Gurbachan Singh, the son of his partner in the transport business, were found by the police in a state of drunkenness and locked up for the night. This furnished Kartar Singh with not only an alibi but with incontrovertible evidence to prove it.

The flaw in Karam Singh's defence was that he had never learnt to drive a motor vehicle. He was, therefore, not qualified to apply for a driving licence. No application for a licence was ever written, and the impressed papers were bought at Hathras on the 7th instead of at Agra on the 8th. Nevertheless it was a bold and clever attempt to escape from the hand of justice. Fortunately it proved unsuccessful, and the sentence of death passed on Karam Singh was confirmed by the High Court.

SEVEN

CHANGE OF IDENTITY

LABH SINGH was a man of modest means and a large family. At the time of the partition of the country he was 52 years of age, and was working as Record Keeper in the office of the Deputy Commissioner at Campbellpur, which is the headquarters of the Attock district. Attock, in the dark days of 1947, was a predominantly Muslim district with only a small sprinkling of Hindus and Sikhs, and its position near the extreme north-west boundary of the province of Punjab became a source of anxiety and fear to the minority communities. So, when the killing started, Labh Singh, despite the fact that he was a Government servant, collected his family and, abandoning everything else, left Campbellpur and succeeded in escaping to East Punjab. He arrived at Ambala and, after a brief period of waiting, secured appointment as Record Keeper in the office of the Additional Deputy Commissioner.

He considered himself lucky. His salary was barely more than Rs. 100/- a month, and he had left behind all his furniture and most of his clothes. But his new post carried the same pay as before; the period of his employment at Campbellpur would be counted as 'service' for purposes of leave, promotion, pension, etc.; he had owned no landed property and therefore had lost none; his wife had been able to salvage her jewellery and whatever little cash she had in the

house. For all this he thanked the Merciful Waheguru and settled down to start life afresh.

His large family was a source both of joy and of worry. He had a wife, seven daughters and three sons. Three of his eldest daughters were married and settled in life. Of the remaining four, the eldest, Jai-pal Kaur, was 20 and of an age when she must marry and cease to be dependent on him. Besides, the presence of a grown-up daughter, old enough to be a wife and a mother, was bound to set malicious tongues wagging sooner or later. But Labh Singh was not in a position to invest her with the attraction of a substantial dowry, and most young men nowadays turn away from the offer of a dowerless bride, however desirable her personal attributes may be. So Labh Singh and his wife were resigned to a state of watching and waiting. They hoped that the Waheguru who had brought them to safety through the horrors of their perilous journey from Pakistan would, at the appropriate moment, provide them with a suitable son-in-law. They had confidence in Him, but they wished and hoped He would not delay matters too long.

So, when Labh Singh saw the following advertisement in the matrimonial column of **The Tribune**, the leading newspaper of the Punjab, on the morning of November 28, 1948, he felt that the hand of God had, at last, moved in his direction:

WANTED—Refugee bride for 28 year Sikh temporary Gazetted Officer. No caste and dowry. No. 3333C, c/o Tribune, Ambala Cantt.

This was just what he had been waiting for. His daughter was a refugee from Pakistan, he had never been very particular about the caste taboo, though he

did want his children to marry into Sikh families. The advertiser was a Sikh and a gazetted officer. The fact that his appointment was temporary caused him no anxiety regarding his future prospects. The country needed new hands in all departments of Government, and once you entered the privileged enclosure of Government service you stayed in, moving from one comfortable seat to another. Indeed, he thought the advertiser was being quite unnecessarily honest about himself; many men would not have admitted to being in temporary service only. But most important of all was the reference to dowry. Here was that rare individual, a bridegroom who was willing to take a bride without insisting on a dowry! Could a poor refugee father ask for more?

He read the remaining advertisements on the page, scanning them with a hurried glance, and brought his eyes back to another study of the Sikh officer's requirements. There was no need to ponder it—the words were clear and unambiguous. He called his wife, Ram Rakhi, and spelled out a Punjabi translation of the English words, adding his own comments and concluding with several grunts of satisfaction. Ram Rakhi agreed that the matter must be taken up immediately and pursued.

For the benefit of those who are not aware of the conditions prevailing in India at that time, it may be stated that there was nothing startling in a young man wishing to marry a dowerless refugee girl. The creation of a Muslim State by the partition of India was accompanied by what the leaders of India and Pakistan were pleased to call 'exchange of population'. Millions of people leading a peaceful life in the West Punjab were hounded out of their homes. The murderous frenzy that raged over the whole province for several months during 1947 took a heavy

toll of life and property. Hindus and Sikhs had to leave behind everything they possessed, lands, houses, household effects, valuables. For the most part they arrived in India with suffering bodies and tortured souls, their total possessions consisting of the clothes they wore. At once, they began the gallant task of rehabilitating themselves. Held together by a common bond of misery and poverty, the refugees stood by one another. There were many Hindu and Sikh young men who, riding on the crest of patriotic emotion, chose their brides from families of refugees. Also, they hoped that a girl who was wooed for herself, rather than for her money and position, would remain for ever grateful and prove a better wife than a haughty and self-asserting member of the new womanhood which modern India was producing.

Labh Singh answered the advertisement, giving particulars of his daughter and asking for further information about the advertiser himself. A reply came after a few days and a further exchange of letters followed. The would-be bridgroom was a double graduate. His letter-head proclaimed that he was Amrik Singh, B.A., LL.B., Civilian Gazetted Officer. He held a temporary civilian post in the Ordnance Depot at Avadi, Madras Area. There was every likelihood that his post would become permanent. The affair progressed smoothly, and it was agreed that Amrik Singh should come over and meet Jaipal Kaur before making a final decision.

So, in the beginning of April 1949, he came to Ambala and stayed at the local Gurdwara. This was a gesture of humility and evidence of a religious bent of mind. Also it was cheaper than staying at a hotel, for all that a visitor staying in the Sikh temple need pay is homage to the sacred Granth. A meeting between the young people took place in the presence of

Jaipal Kaur's parents and friends, specially called for the occasion. Amrik Singh found that the 'refugee girl' was good-looking, well brought up and educated. She had passed the matriculation examination of Punjab University. He himself looked more than 28. He might have been 30 or 31, but this was scarcely an impediment. He was not exactly handsome, and there was an ugly scar over his left eyebrow, but he had a good bearing and the cruel lines around his mouth were concealed below a thick growth of beard and moustaches.

Amrik Singh liked the girl and said so. Labh Singh and his wife approved of the young man. Jaipal Kaur raised no objection, and her shy silence was correctly interpreted as consent. A formal betrothal took place, at once, and April 19 was fixed for the wedding ceremony. After the marriage, which was performed according to Sikh rites in the Qaziwara Gurdwara in the city of Ambala, Amrik Singh took his bride to Delhi for one day. Orthodox Indian custom requires that the bride return home for a short visit to her parents almost immediately after the marriage, and before she goes away with her husband to set up her own home. The first phase of the honeymoon generally lasts no more than a day or two at most. Thereafter for the space of a year or so the bride continues to visit her parental home at gradually increasing intervals till she gets acclimatised in her new environment and takes roots in her husband's family. So, on the third day after the wedding, the newly married couple returned to Ambala. Jaipal Kaur stayed on in the home of her parents and Amrik Singh went back to Madras, promising to return after a month and fetch her.

During the brief visit to Delhi, Jaipal Kaur had not had the time or the opportunity to make the acquaint-

ance of her husband. An Indian bride is proverbially shy, and during the twenty-four hours that she spent with him there were only a few snatches of conversation, and hardly a dozen sentences were exchanged between the spouses. Nothing, however, occurred to make her in any way apprehensive of the future. Her husband conducted himself with admirable restraint, and showed the utmost consideration for her feelings. So, when he came to fetch her towards the end of May, she accompanied him without hesitation, and during the long train journey to Madras looked forward to having a new home and leading a comfortable life with a husband whose salary was three times that of her father's.

At Avadi, Amrik Singh and his wife lived in a portion of a large house which had been let out to three different tenants. A peon who worked in Amrik Singh's office came in and did odd jobs in his spare time for a small extra payment, and the peon's wife did the cleaning and washing-up. Jaipal Kaur possessed a gregarious temperament; she soon made friends with her neighbours and began to visit them during her idle moments while Amrik Singh was away in office.

A few days after her arrival at Avadi she heard disquieting rumours about Amrik Singh and his manner of living. The neighbours were at first reticent, but when they realised that she was completely innocent of her husband's true nature, they told her that she was living in a fool's paradise. Amrik Singh, they informed her, had another wife living, and was the father of two children by her. The first wife and her children were living with him before he went north to marry Jaipal Kaur. They had been sent away and were obviously being kept out of sight for the time being to avoid an ugly situation at the very moment

of her entry into Amrik Singh's household. The neighbours threw hints of other things that went on under their very eyes, of women of a certain type paying clandestine visits to the house and the carryings on that Amrik Singh was capable of. Jaipal Kaur was upset, and what she heard worried her, but she told herself that only seeing is believing and so far she had seen nothing. Amrik Singh was an exemplary husband, perhaps a little too ardent for her in his love-making but this (so she had heard from her friends) was a fault on the right side.

After some weeks at Avadi, Jaipal Kaur began to feel homesick and expressed a desire to pay a short visit to her parents. The long journey to Ambala meant a heavy expense, but Amrik Singh raised no objection. He bought her a ticket and put her on the train going north. At Ambala, Jaipal Kaur spoke to her parents of the rumours she had heard and communicated to them her fears and misgivings. They made light of the matter and told her not to believe everything she heard. As long as she had faith in the Waheguru, no one could do her any injury. Had He not protected them from the murderous knives of the Muslims and brought them to safety in a most miraculous manner? In the familiar atmosphere of her home and in the company of her brothers and sisters, Jaipal Kaur soon forgot the idle chatter of her Avadi neighbours, and the resilience of youth restored her spirits.

Amrik Singh wrote, asking her to return to Avadi. His letters became more insistent. He sent telegrams urging her to come home immediately. Whether he loved her or not, whether he had a previous wife and children and had affairs with women of easy virtue or was merely the victim of slanderous tongues, he certainly wanted her. This summoning of her so

urgently and persistently was flattering to her ego. Besides, a woman's place is by the side of her husband. So Jaipal Kaur returned to Avadi, towards the end of August, and arrived there on Tuesday, the 30th August, 1949. At the railway station she was received by Amrik Singh's brother-in-law and was taken home.

There she found everything changed. A woman who called herself Baljeet and her two little boys were in possession of the house. Baljeet was the name by which the neighbours had referred to Amrik Singh's first wife, and it was her brother who had received Jaipal Kaur at the railway station. Baljeet admitted that she was married to Amrik Singh and that he was the father of the two little boys. Amrik Singh was no longer the polite honey-tongued bridegroom of her first acquaintance. He was no longer concerned with her comfort or happiness. He showed her no consideration at all and treated her like a chattel which he had acquired for the satisfaction of his needs. Instead of making kind enquiries about her long and tiresome journey, he charged her with being disobedient and obstinate. He reminded her that he had to send her five telegrams before she condescended to come. This was certainly not how he expected his wife to behave.

Jaipal Kaur asked him about Baljeet and the two boys. He replied that Baljeet was his cousin—the daughter of his mother's brother, and had every right to stay in his house. When Jaipal Kaur pursued the matter further and accused him of being a liar and a deceitful person, he told her to shut up and mind her own business or he would beat her black and blue. Baljeet's brother joined in these threats. He discovered two post-cards which she had written to her people and tore them up. He told her that if she

wrote again she would pay for the offence with her life. Amrik Singh enforced his marital rights, and if she refused her person or made excuses he beat her.

All this happened within the space of two or three days. This sudden and calamitous change in her way of life frightened and horrified her. She found herself unable to cope with the situation, and decided to run away from it. Her co-wife Baljeet told her that in flight alone lay her safety, and if she stayed much longer Amrik Singh would most certainly kill her. On the fourth day of her arrival she wrote the following letter to her parents.

Amrik Singh B.A., LL.B.

Civil Gazetted Officer.

3 September 1949

My dearly respected Mother and Father,

Sat Siri Akal. I arrived in Madras on Tuesday 30th. Kanwar's brother-in-law received me at the station. Baljeet and both her boys are here. He asked me why I hadn't come earlier in spite of his sending me five telegrams. On Monday morning I shall leave Madras by the 10.15 train and reach Delhi on Wednesday morning at eight. I shall go to catch my train after Kanwar's brother-in-law has left for his office. I am in great distress. If for some reason I cannot leave on Monday, I shall certainly come on Tuesday. Come to the station, both of you, to receive me. I wrote two post-cards, one addressed to you and the other to **massiji**. Before I could post them, Kanwar's brother-in-law discovered them and tore them up. He says if I ever show a desire to write a letter to Ambala, he will kill me. Love to Kanwar, Ujagar and Mohinder, love to Rani, Goodi and Jasbir. **Sat Siri Akal** to

aunt and uncle and to grandmother and Sita. Keep this letter a secret.

Your exiled and unfortunate daughter,

PAL.

On Monday she could not make a get-away, but on Tuesday, the 6th September, she succeeded in eluding the vigilance of her husband's relatives and boarded a north-bound train. Her absence from the house was discovered almost at once, and information was sent to Amrik Singh in his office at 1 p.m.

He knew exactly how to deal with the situation and acted quickly. He made enquiries about plane timings and looked up the railway time-table. He found that he could fly to Bhopal on the following day and arrive there in ample time to meet the train in which Jaipal Kaur was travelling. He took three days' leave and booked a seat on the plane going to Bhopal on the 7th. He sent a report to the police that his wife Jaipal Kaur had run away and taken with her Baljeet's jewellery, ornaments and silk clothes worth Rs. 5,000/- He sent a telegram to Labh Singh that his daughter was a thief and that he had placed the matter in the hands of the police. Having laid his plans, he went home to rest and savour the joy of anticipation. He had nothing more to do till the next morning.

Everything happened as he had planned. A defeated and horror-struck Jaipal Kaur was taken off the train at Bhopal and brought back to Avadi. The matter of the alleged theft was dropped, and a strict watch was kept over Jaipal Kaur's movements. Her elder sister's husband came rushing from Delhi followed by her father, Labh Singh, and his two other

sons-in-law. They were worried by the sudden and mysterious turn of events. Jaipal Kaur had written to say she was coming home, but had failed to arrive. Instead there was Amrik Singh's telegram accusing her of theft and desertion. The family was distressed by the thought of criminal prosecution and wanted to know what exactly had happened. But no one was allowed to see Jaipal Kaur. Amrik Singh told Labh Singh that things had been smoothed over, his daughter had left the house in a fit of tantrums, but he had brought her back and she was quite content to stay where she was. She was a little upset emotionally, at the moment, and it wouldn't do anybody any good if she were asked to come out and talk to her relations. He made a solemn promise to take her to Ambala in December. Labh Singh caught a momentary glimpse of his daughter from the door. She called out to him, but Amrik Singh and his brother-in-law intervened and hustled Labh Singh away. The next morning he returned home to Ambala, not reassured but hoping against hope that better sense would prevail and the relations between his daughter and son-in-law would improve.

Then followed a period of persecution and ill-treatment for Jaipal Kaur. She wrote home an occasional letter giving expression to the suffering and anguish of her soul. It was not often that she could contrive the opportunity to post her letters, and any replies that she received were intercepted and read. Four of her letters recovered by the police from Labh Singh's house were produced at the trial and read in evidence. They must have wrung the heart of her helpless parents. Soon after the visit of her father and brother-in-law, she wrote:

Babooji, the day you came to Avadi in the evening, you asked his brother-in-law to take me to the railway station. He replied he would. This was a false promise. Babooji, I called out to you on the verandah to have a word with you but his brother-in-law arrived and I held my tongue. I had no opportunity even to speak to you. I knew beforehand that I would not be permitted to go to the railway station to see you, but I thought that since his brother-in-law had promised to go to the station and take me with him, I might get a chance of speaking to you. But when he woke up in the morning, he said he was unwell and would not go to see you. Even at half-past eight, he continued to be in his bed. At a quarter to nine he got up, bathed and took his tea. He was ready at nine. He told me he was going to the hospital to have his arm examined. On this pretext he left the house for office and returned at five o'clock. In the morning he had said he would not go to the office. I kept on saying that I wanted to go and see my Babooji, but no one listened to me.

Babooji, he always asks me if I want to go to Ambala. If I say yes, he makes me suffer for it. Babooji, as long as I am here I cannot say that I want to go to Ambala. With folded hands you should pray that he be transferred, so that I may get an opportunity of coming to Ambala. Babooji, I am sure the man is a cheat and knows how to deceive people. It is false that Baljeet is his cousin. On the contrary she is married to him. They have a house in Hoshiarpur in Arya Nagar near the hospital, you can make enquiries yourself. Don't reply to this letter. No one should know that I have sent it. **Sat Siri Akal** to auntie and uncle and Sita. Love to Goodi, Ram and Bir, love to Kanwar, Ujagar

and Mohinder. Lots of love to Kanwar and Ujagar. I miss Kanwar and Ujagar very much. Don't fail to write how Bhabiji is. Babooji, if his brother-in-law forces me to write to you or to Mohinder, do not reply. He says to my relatives that I, Pal, am his only wife and not Baljeet. To Baljeet's relatives he says that Pal is not married to him. His brother-in-law says that he will never let me go to Ambala. Babooji, if it lay in my power, I would have flown to you and poured out my grief, but that is beyond my power. Had I known that he would make a false report to the police against me and travel by aeroplane to bring me back I would not have left Avadi. I am grief stricken that on my account you have to suffer so much. I am the cause of Bhabiji's illness. **Sat Siri Akal** to all. Write about Bhabiji. Forgive me my wrongs. Your exiled daughter Pal.

A month later she wrote again:

. . . His brother-in-law politely asks me if I wish to leave this place for ever or give up my parents. If I say that I would like to go to Ambala, he starts beating me mercilessly and says that he will cut off my hands and feet if I so much as mention Ambala. . . . If I dare to speak of going home, he starts slapping and kicking me. He beats me with his fists, sticks and boots. Babooji, he loves no one. He likes a person only so long as he can satisfy his lust, if he cannot get his wish, he disowns even his relatives. He does not wish to be transferred as in this out of the way place he can make love to a new girl every day without being found out. Babooji, send him a polite letter immediately so that he sends me to you. Each day

of mine is equal to a year. Don't reply to this letter. I am writing it without his knowledge. I miss Kanwar, Ujagar. Give lots of my love to Kanwar, Ujagar and Mohinder, love to Rani, Bir, Jas and Goodi, **Sat Siri Akal**. Babooji, he never speaks the truth. He knows only two things, to cheat and to lie. Babooji, sometimes I think I should commit suicide, but the love of Kanwar and Ujagar does not allow me to do anything. I wish I could see Kanwar and Ujagar just once. Babooji I am in great trouble. **Sat Siri Akal**. Your unfortunate, exiled and for ever parted daughter, Pal.

Her next letter was sent only a few days later.

. . . Babooji he says to me that I shall have to pass the whole of my life with Baljeet. He says if I cannot do this, I shall leave him. If I say he should send me back home he beats me. He came to know of the letter I sent you and beat me with shoes and sticks. He slapped me and kicked me. He made me write that I was sold by my parents for Rs. 3,000/-. He also forced me to write that before my marriage I loved someone else, but my father had, for the sake of money, married me to 'him' (Amrik Singh). Babooji, at first I refused to write these things, but he beat me till I agreed. Babooji you should write in every letter that Bhaji is ill and wants very much to see Pal. Take me away from this place somehow. Write something which will make him send me to Ambala. I am utterly miserable here. If I live here for two months more my health will break down. When I get up in the morning I feel giddy. I have a pain in my sides and darkness comes before my eyes. His mother says she does not know if I am mar-

ried to him or if he abducted me and is keeping me as a mistress. He says to her that he will get his pleasure from me as long as I have my youth and when I am no longer young, he will turn me out. He won't admit to anyone that he married me. . . .

Jaipal Kaur was pregnant when she wrote this letter, and the strain of her life at Avadi was beginning to undermine her health and her spirits. Amrik Singh was behaving more and more like a savage barbarian. He drank heavily and brought women of ill-repute to the house. The false confessions he had forced out of her added to the power he wielded over her. He beat her and threatened to expose her. She found some photographs of him in compromising positions with other women and surreptitiously sent them to her father. She thought blackmail must be met with blackmail. She hated him, she hated the child now rapidly growing inside her. In her father's house her whole emotional life had revolved round her brothers and sisters, and she remembered them now with a feeling of tragic despair, for she could see no way of escape from her life at Avadi. She hoped against hope that her father would do something, work some miracle whereby she would be saved. Her last letter from Avadi is the cry of a broken heart. It was sent on November 21, 1949.

My dearly respected Bhabiji and Babooji,

Sat Siri Akal. I received your letter yesterday. I felt very sad on reading of Bhabiji's illness. Bhabiji, he does not want to send me to Ambala because he thinks my parents will do him some harm. He says Bhabiji is not really ill and this is only an excuse to get me back. He will write you many letters and

say that he cannot let me go alone or that it is too cold for me. Do not believe him. Keep his letters safely. Continue writing to him again and again and say he must send me. Do not say I have written to you. I am sending you two photographs and two negatives. Keep them safe. So long as I am with him do not mention these photos and negatives. When I speak of going to Ambala, he beats me and abuses me. My health has been shattered. Love to Kanwar and Ujagar. I miss them very much. Love to Jas, Rani and Bir. Don't show the photos and negatives to anyone. If he comes to know of them he will beat me. He will write a hundred thousand things, but don't believe him. Much love to Kanwar and Ujagar. Your exiled daughter.

Don't say a word about the photos. Don't believe him.

During the next few weeks life at Avadi continued as before; there seemed to be no prospect of a change and Jaipal Kaur's mortified spirit was becoming enured to the constant impact of pain and suffering. But just when she had almost despaired of ever escaping from the horrible prison of her husband's house, the opportunity to return home and regain her sanity came to her. Baljeet, her co-wife, offered to help her. That she was actuated solely by humanitarian motives is possible, though the probabilities are that an element of jealousy played a not unimportant part in the proceedings. Amrik Singh's mother was no longer staying in the house; Baljeet's brother was also away. It was planned that Jaipal Kaur should leave Avadi, on the morning of January 8, and go to Burhanpur, where one of her married sisters was living, and after a few days at Burhanpur proceed to Ambala. Amrik Singh would know nothing of her escape till late in

the evening when he came home from office, and if he tried to follow her by plane he would not find her on the train at Bhopal. Once she was with her sister she would be safe, and a thousand Amrik Singhs could not drag her away.

On the evening of January 7 she wrote two letters using the Hindi script instead of the usual and more familiar Gurmukhi in which she corresponded with her people. Both letters were in identical terms. One was addressed to the Deputy Commissioner of Madras and the other to the Inspector of Police. This is what she wrote:

It is submitted that Sardar Amrik Singh deceived my parents and told them that he was a bachelor and had no relatives living, because all of them had been murdered in Pakistan. He said he was a man of good character, and thus prevailed upon my parents to give my hand in marriage to him. On coming to Avadi, I learnt that he already had a wife and children who lived with him. His relatives are alive, he is a man of bad character. Whenever I express a desire to go home to my parents, he beats me mercilessly. My father and brother came to fetch me, but he refused to let me go. He kept me locked up and did not permit me even to speak to them. He promised to send me home, in December, and to treat me more kindly, but he continued to beat me and abuse me as before. He does not allow me to go home because he is afraid my father will start a case of cheating against him. If I speak of going to my parents, he shows me his gun and says he will shoot me. He says if my father comes to fetch me he will shoot him also. I am in constant danger of my life. Please cancel his revolver licence. He keeps me in his house

like a prisoner. He will not permit me to write to my parents. He threatens me and says that if I leave his house without informing him he will make a false report to the police against me. I have been waiting for an opportunity, and now the opportunity has come. My mother has been ill for the last four months. My father sent many letters and telegrams, but they were not shown to me. I am now leaving with full knowledge of his wife and children. She tried to dissuade me and stop me but I refused to stay. I am taking with me only the clothes I am wearing. I am not taking anything else and so no action should be taken against me.

JAIPAL KAUR

daughter of Sardar Labh Singh
R. K. Office, A.D.C. Ambala City.

The two letters were posted on the 8th, just before Jaipal Kaur left Avadi, and she hoped that no harm would come to Balject for her complicity in the plan for escape, and the authorities would have the wisdom to see Amrik Singh's true character and forbear from pursuing and persecuting the unhappy victim of his brutality.

Jaipal Kaur arrived at Burhanpur without any mishap on the way. She had sent a telegram to her sister from a wayside halt, and her sister was at the railway station to receive her. She had also informed her father of what she was doing. After a week at Burhanpur she continued her journey to Ambala. The family reunion was celebrated with much weeping and laughing and a great deal of affectionate hugging. Jaipal Kaur poured out the long tale of her misfortune and suffering; she swore she would never go back to her deceitful and villainous husband; she was con-

tent to spend the rest of her life with people who really loved her, even if it meant living like a widow.

But there was no peace for her even in Ambala. On the very next day Amrik Singh arrived and demanded the restitution of his wife. He stood in front of Labh Singh's door and made such a clamour that a crowd collected in the street. Labh Singh tried to put him off, and told him that his savage behaviour had broken Pal's heart and she was not willing to go back with him. On this Amrik Singh became even more noisy and importunate. Labh Singh begged him to go away, and said Pal would be sent to Madras after a few days as soon as she had recovered her health and her spirits.

Amrik Singh went away, but he returned again two days later; and when Jaipal Kaur refused to see him he shouted at Labh Singh and threatened the whole household. He stood near the door flourishing a revolver and alternately pointing it at Labh Singh and his wife. Labh Singh maintained his hold on sanity. He spoke calmly but firmly, and told Amrik Singh to go away and keep his revolver safe. 'Remember, he said, 'I am Pal's father. She has a right to be here, and there is no cause for all this noise and abuse.'

Amrik Singh returned to Madras, but Labh Singh anticipated further trouble. He had a lurking fear that his crafty son-in-law would return to the charge after devising a cunning plan of attack, and employ some new and effective weapon. To afford himself some measure of protection against the possibility of further machination, he went to the police on January 30 and lodged a formal complaint. He related the circumstances in which his daughter had been married to Amrik Singh, the fraud played by him upon the whole family, the subsequent ill-treatment of Jaipal Kaur at

Madras and her escape from there. He concluded by saying that he and his daughter apprehended danger to their persons and he would take legal proceedings against Amrik Singh.

Labh Singh did not ask the police to intervene at that stage, nor would the police have been prepared to do anything. They looked upon the matter as a purely domestic quarrel. A wife had run away from her husband and come home to her parents. Such things happened every day, all over the world. Labh Singh's complaint was probably nothing more than an attempt to create evidence in his own favour and forestall his son-in-law's next move. For the moment Amrik Singh was in Madras and Jaipal Kaur was safe with her parents. So the report was recorded and filed.

Before a fortnight had passed Amrik Singh was back in Ambala. He now refused to be put off, and came to the house every day and sat for hours making a nuisance of himself. On February 12 he came in the morning and sat till 11 p.m. The next day he sat till 8 p.m. He changed his mood from the conciliatory to the belligerent. One moment he reasoned and argued, the next he was up and shouting, uttering threats and flourishing his revolver. He promised to make amends and treat Jaipal Kaur more kindly. She would have no further cause for complaint, he said. When he saw that Labh Singh hesitated and Jaipal Kaur flatly refused even to speak to him, he lost his temper and exclaimed he was asking for no more than his right, and a wife's place was with her husband. On the 15th he arrived at the house at 6.30 a.m. and declared that matters had now come to a head, and he would not leave the house unless Jaipal Kaur accompanied him.

Labh Singh did his best to pacify his son-in-law and reason with him. He offered him a cup of tea and suggested that the matter be decided in the presence of the brotherhood. To this Amrik Singh somewhat reluctantly agreed. Labh Singh, accordingly, went to call his friends and relations and, as it was a Sunday, he was able to collect seven or eight persons in whom he had confidence and whose judgment he trusted. As soon as the assembly was in session, in Labh Singh's courtyard, Amrik Singh demanded that Jaipal Kaur should appear and present herself before the brotherhood. But Jaipal Kaur was not at home. She had left the house by the back door the moment she heard Amrik Singh arrive, and had taken refuge in the house of a friend. Labh Singh maintained that her presence was not necessary, and that he would accept the decision of the brotherhood. Amrik Singh insisted that Jaipal Kaur be sent for.

A message was sent to her, and Jaipal Kaur arrived within a few minutes. A hush fell over the assembly and no one stirred or spoke as she walked across the courtyard, and, going half-way up the staircase leading to the first floor, sat down on one of the steps, a picture of disconsolate sorrow, suppressed anger and intense suffering. From where she sat, the courtyard was visible and she could see and hear what her judges were doing. There was a long moment of intense expectation, and then the silence was shattered by Amrik Singh's voice exploding in a tone of querulous enquiry.

'Are you ready to come home with me?'

Jaipal Kaur replied, with tears of anger choking her voice, that she would not accompany him unless he mended his ways. At this reply, Amrik Singh's wrath swelled and burst out. Turning to the assembly, he demanded a decision in his favour. He called

upon Labh Singh to deliver up his wife to him. Labh Singh temporised. He appealed to the brotherhood, he asked his son-in-law to remain calm, and finally promised to send Jaipal Kaur to Madras after a few days. He said he would keep his word.

Thinking that the proceedings had come to an end, Jaipal Kaur got up and turned round to go upstairs. Amrik Singh had by now worked himself up into a veritable frenzy, and when he saw her move his fury broke loose. He barked out a peremptory 'stop', and as Jaipal Kaur half turned to look at him over her shoulder he whipped out a Webley Scott revolver from the pocket of his army overcoat and fired a shot in her direction. The bullet passed through her right arm and entered her chest. Uttering a low moan, she crumpled up and collapsed on the stair.

For a brief moment the members of the brotherhood were petrified, then they jumped up and rushed at Amrik Singh. But he was too quick for them. He lowered his revolver and, pointing it at them, fired three shots in quick succession. Amar Nath, a friend of Labh Singh, who was nearest, received a bullet in the centre of his chest. He wheeled round and fled through the door, screaming and leaving a thin trail of blood behind him. Labh Singh was just behind Amar Nath. He was hit twice—in the chest and in the abdomen. He fell down on the spot and lay still, apparently dead. The others now fled in different directions, some running out into the street, some seeking shelter behind the door and some running up the steps to the safety of the upper storey. While their backs were turned and before they had gone more than three or four steps they heard two more shots. One of them, turning round, saw Amrik Singh lying prone on the ground. But he did not stop to enquire into the cause of this extraordinary development. He

had seen enough for the time being, and ran all the way home.

Nirmal Singh, another member of the brotherhood, had run into the kitchen as soon as the first shot was fired. He came out when everything was quiet and beheld the scene of devastation in the courtyard. Jaipal Kaur lay on the steps, half-way up the staircase; she was moaning in a state of semi-consciousness. Labh Singh lay silent and motionless in the centre of the courtyard. To all appearances he was dead. Not far from him lay Amrik Singh. His face was covered with blood and a small dark pool was forming on the ground near his head. He, too, had the appearance of a dead man. A few curious faces were peering from the doorway leading out to the street.

Leaving the carnage under the watchful eyes of the spectators, Nirmal Singh went to the police station and made a full report of the occurrence. The police registered a case of three attempted murders and an attempted suicide, and a strong force consisting of a Sub-Inspector, two head constables and four constables, armed with rifles, proceeded to Labh Singh's house to take charge of the situation and enquire into the matter.

There was nothing much to enquire into. No elaborate investigation was necessary. The case was simple and straightforward. All the evidence was readily available, and the offender was on the spot, waiting to be taken into custody. Sub-Inspector Inder Singh could not have wished for an easier job. He set about preparing the usual papers and writing the case diary. All the injured persons were alive, though the condition of Labh Singh was precarious and he was not expected to survive. He succumbed to his injuries in the early hours of the following day, after

he had made a brief statement about the incident.

Amar Nath's injury did not prove serious. The bullet had entered the right side of his chest, a little below the collar bone, and on reaching home he suffered intense mental agony. The doctor who examined him soon afterwards said in his medico-legal report that the patient was in a state of shock. The injury healed after a few days. Jaipal Kaur also suffered from shock; the bullet had passed through her right arm, leaving a wound of entry and a wound of exit and entered the right side of her body below the armpit. Her condition was considered serious, particularly because she was with child—her pregnancy being now five months' old. She suffered a miscarriage within a few days of the occurrence, and her recovery was so slow that, for nearly seven months, she lay in hospital unable to pursue the normal course of her life.

Amrik Singh's injuries were not serious. There was no doubt that he had intended to kill himself, but either the intensity of his passion shook his hand or the over powering instinct of self-preservation unconsciously deflected the aim of his weapon from a vital part of his body; the fact remains that he suffered very little damage from either of the two shots he had fired at himself. The doctor found four bullet wounds on his face, two of entry and two of exit. Both bullets passed through fleshy parts of the face, and no bones were broken. There were two wounds on the chin one inch apart, and connected by a complete track. The bullet had entered just below the chin, travelled upwards through the flesh for the short space of one inch and then left the body. The other bullet entered the left side of the face at the angle of the lower jaw and came out in front of the pinna of the left ear. The distance between the two wounds was three and

a half inches, and they were connected by a complete track.

The doctor who examined Amrik Singh and drew up the statement of injuries was one of those rare conscientious individuals who take pains over what seem unimportant details. He recorded his observations very precisely, giving the exact measurements of injuries and their location, as also the distance between the wound of entry and the wound of exit in each case. He noted that Amrik Singh had an old scar 'on the centre of his left eyebrow' and 'a scar $1'' \times \frac{3}{4}''$ on the centre of the right shin'. These old scars were mentioned as marks of identification as is done on passports and identity cards. Amrik Singh had a scar on his right ring finger also, but the doctor either failed to notice it or did not think it necessary to mention it in his papers, thinking that two marks of identification were quite sufficient to establish his identity.

As soon as Amrik Singh's injuries had been attended to, he expressed a desire to make a statement. He asked to be taken before a magistrate, so that his statement could be read out and treated as evidence in the subsequent trial. It must be remembered that, according to law, statements made to the police during investigation cannot be used at the trial except for a very limited purpose. Amrik Singh was accordingly produced before a magistrate of the first class and asked what he had to say. The story he narrated was true in part only, the rest was a piece of pure fantasy. He admitted that he had inserted a matrimonial advertisement in **The Tribune**, but he denied that he had practised any fraud on any one. He had quite frankly told Labh Singh that he was already married and wanted to take a second wife. He met Jaipal Kaur in the Gurdwara and approved of her. The girl's mother, Ram Rakhi, told him that he would

have to pay Rs. 2,000/- as Labh Singh's salary was very small and they were badly in need of money. The money was paid. The marriage took place, and he took Jaipal Kaur for a day to Delhi. He then left her with her parents at Ambala. When he came back after a month he suspected that she had been unfaithful to him. At this stage Amrik Singh gave an incredibly base and ignominious turn to his story :

I called her mother in the morning. She put her veil round her neck and holding the two ends in the attitude of a confessing suppliant pleaded with me. She said the honour of the family was in my hands. I replied that if she wanted to retain her honour, she should send her younger daughter Harbir Kaur also with me. This condition was agreed to. Taking the two girls with me I reached Madras on May 27, 1949. There I lived with both the sisters and cohabited with them. After two months I told them to go as I wanted to call my first wife. They accordingly left on the morning of July 24, and on the same day, my first wife arrived. On the 31st July I sent a telegram to Labh Singh asking him to send Jaipal Kaur back. I sent four telegrams one after the other, but Jaipal Kaur did not come. Afterwards she wrote to me that her sister Harbir Kaur had blurted out the whole story to her parents and they wanted Rs. 2,000/- for the younger girl. I said I would settle the matter later. I sent her sixty rupees for her fare and she came to Madras, on August 30. She at once began to demand Rs. 2,000/- saying I should send the money to her father. When I refused, she ran away, on September 6, while I was in office. She took with her the ornaments and jewellery of my first wife and some silk clothes.

He went on to say that he had brought her back from Bhopal, and Labh Singh had a few days later come to Madras and demanded Rs. 2,000/- for Harbir Kaur. The incident of Jaipal Kaur's second escape was then narrated, though according to him Jaipal Kaur's mother had herself gone to Madras to fetch her ('abduct her' was the expression used in the statement). He followed her to Ambala, but Labh Singh put him off; he returned to Madras, and went back to Ambala after a few days.

I proceeded to Ambala again on February 5. I went to their house, but they abused me and threatened to have me arrested by the police. I went back thinking that matters would right themselves in two or three days. On February 11, accompanied by Harnam Singh, I called on them again, but everyone in the house showered abuses on me. I waited at the house till 10 p.m. when Labh Singh told me to come back the following morning and promised to hand Jaipal Kaur over to me. So, the next day, I again went to their house. Ram Rakhi and Labh Singh were very polite, and said Jaipal Kaur would certainly accompany me on the 15th. Accordingly today at 7 a.m. I reached their house. For some time they tried to put me off, and at 10 a.m. they began to collect their relatives and also called Jaipal Kaur. As soon as Jaipal Kaur came, she and her mother began to abuse me and told me to leave the house. Sooner than take Jaipal Kaur with me I should marry my own sister, they said. When I turned to Jaipal Kaur she only abused me. I got up and went up to where she was sitting in the stairs. Touching her feet, I asked her to accompany me or shoot me with my revolver.

At this all the relatives who were present fell

upon me, and one of them snatched the revolver from my hand and fired a shot at me, but fortunately he missed. The shot may have hit Jaipal Kaur. I ran and hid behind some charpoys. More shots were fired and some of them hit me on the left cheek as I was lying on the ground. I cannot say how many bullets hit me. I became unconscious. When I regained my senses I saw a large crowd and the police around me.

Every word of this statement makes manifest the essentially base, perfidious and vicious nature of Amrik Singh. There was ample evidence to prove that Labh Singh neither demanded nor received any monetary consideration for giving the hand of his daughter in marriage. Harbir Kaur never went to Madras, and it is unimaginable that the devout family of Labh Singh should have countenanced the sin of her committing adultery with her own sister's husband so blatantly. The story of this horrible orgy was invented for no other purpose than to vilify and calumniate his unfortunate wife and her family. Finally the account of what took place in Labh Singh's house, on February 15, is so palpably absurd that it has only to be read to be disbelieved.

Among the articles recovered from Amrik Singh's person was an identity card issued by the Army authorities. It had Amrik Singh's photograph affixed to it, and it also bore the print of an impression taken from his left thumb. His height was stated to be 5 ft. 8 ins. A scar on the right ring finger was mentioned as the mark of identification. The card was attested and signed by Capt. K. V. Menon in token of its genuineness.

It was not long before the police had concluded the enquiry and placed Amrik Singh on trial upon charges

of Labh Singh's murder, the attempted murder of Jaipal Kaur and Amar Nath and attempted suicide. On the day evidence was to be examined, Amrik Singh presented an application to the court praying for an adjournment on the ground that he was suffering from a heart attack and was not in a fit state to take part in the proceedings. This request was rejected, and while recording his order the magistrate observed that the prisoner was represented by counsel and his condition did not appear to justify a postponement of the hearing. But Amrik Singh had the devil's own luck. While he was being brought to court for the next hearing of the case against him, he succeeded in breaking away from his guards and escaped, carrying with him his handcuffs and a length of chain attached to them. No one exactly knows how it happened, but it was one of those extraordinary events which baffle the historian but which nevertheless take place. There was a departmental enquiry, one or two persons were censured, some more were admonished, but the awful fact remained that Amrik Singh had escaped, and all efforts to trace him proved fruitless.

Amrik Singh's name was placed on the list of proclaimed offenders, and circulated to all police stations in Punjab, Delhi and Madras. The statements of the witnesses called by the prosecution were recorded, in the absence of the prisoner. Any of these depositions could be read out in evidence at the trial (whenever it took place on Amrik Singh's re-arrest), if the deponent died or if his presence could not be secured for any other reason. The court record was complete, and there was enough material to hang Amrik Singh. But where was Amrik Singh, and would he ever be hanged?

For more than three years nothing whatever was heard of Amrik Singh or his whereabouts. Sub-

Inspector Inder Singh, who was the officer in charge of the Ambala police station in 1950, was transferred and Chaudri Radha Kishen succeeded him. Amrik Singh's exploits were receding into the limbo of ancient history, though his name was still prominently displayed in the list of proclaimed offenders hanging in every police station in the State. Thus matters stood when, shortly after midnight towards the end of June 1953, the telephone at the Ambala City police station rang. Chaudri Radha Kishen picked up the receiver. He was told that the Delhi police wanted to speak to him. He listened.

'Is Amrik Singh a proclaimed offender of your police station?'

Chaudri Radha Kishen quickly scanned the list of P.O.'s. Yes, he shouted back, Amrik Singh, son of Teja Singh Ahluwalia, was a P.O. in two cases under section 302, Indian Penal Code (murder), and section 224, Indian Penal Code (escaping from lawful custody). He read out a description of the offender from his papers, and warned the Delhi police to be particularly vigilant and take special precautions because the man was a desperate criminal and had once escaped from police custody.

'Rest assured,' said the voice over the wires, 'your man will be delivered to you tomorrow.'

When Chaudri Radha Kishen went down to his office on the morning of June 26 he was told that Amrik Singh had come. He interviewed a well-dressed man in European clothes, whose face was shaven and who wore short hair on his head. The prisoner said he was not Amrik Singh, but Amar Sarup, a medical practitioner who originally belonged to Lyallpur in West Punjab, but who, in 1947, had been forced to leave his home and escape to India. He was living

at Benares and earning his living as a homeopath and **ayurvedic hakim**.

Radha Kishen took note of what the prisoner said, and gave directions for his being produced before a magistrate, so that an order remanding him to the judicial lock-up should be made. When Amar Sarup or Amrik Singh was taken out of the police station he covered his face with a picce of cloth and kept it concealed till he was safely back inside the walls of the gaol.

In the meantime, Sub-Inspector Radha Kishen heard an account of the prisoner's arrest from the men who had brought him from Delhi. It was the usual story. On June 24 an informer (whose name in accordance with police practice was not revealed) had gone to a high police official in Delhi and told him that one Amrik Singh, a Punjabi Sikh, who had, some years ago, murdered his father-in-law in Ambala and escaped from police custody, was present in Delhi. The culprit had shaved his beard and cut off the long hair on his head. He smoked cigarettes incessantly and dressed and lived in European style. He was expected to pass along Queen's Road near Amrit Hotel at about 11.30 p.m.

Orders were, at once, issued that a party of policemen in plain clothes should accompany the informer and apprehend Amrik Singh. The ambush was laid, and soon after 11.30 a tonga was seen coming down Queen's Road. There was one solitary passenger sitting on the back seat, and when the tonga arrived at a turning in the road it stopped and the passenger got down. The informer made a sign, and the police party at once closed in. The passenger expressed surprise at this extraordinary happening, and said he was Amar Sarup Azad, a doctor from Benares. But he offered no resistance and allowed himself to be con-

ducted to the police station, where he spent the night.

A search of his person brought forth a number of papers, of which one proved to be a most important piece of evidence at the subsequent trial. There was a passport in the name of Amar Sarup, three photographs of women, a registration certificate issued by the Board of Ayurvedic and Unani System of Medicine, dated February 20, 1953, showing that the name of Amar Sarup Azad was borne on the Board's records. A similar certificate issued by the U.P. Board of Indian Medicine on October 25, 1951, a letter addressed to 'Azad Sahib' and a railway cloak-room luggage receipt issued in the name of Baljeet Kaur, and bearing her signature.

The room which the prisoner had occupied in Amrit Hotel was searched in the morning, but nothing of any significance was recovered.

The Ambala police thought they had an easy task to perform in establishing the identity of their captive. His height was measured and found to be 5 ft. 8 ins.; he had a scar on his left eyebrow and four scars on the left side of his face at exactly the places where bullets fired by Amrik Singh in the attempt to commit suicide had caused injuries. He also had a scar on his right shin. The appearance of his face did not quite correspond with the photograph on Amrik Singh's identity card, but this was obviously due to the removal of his beard and moustaches, and in some measure to the passage of time. Albeit, the prisoner vehemently denied that he was Amrik Singh, or that he had anything to do with the crimes committed in Labh Singh's house at Ambala on February 15, 1950.

The obvious thing to do was to hold an identification parade, and this the police proceeded to do. The proceedings took place in the presence of a magistrate. The prisoner was made to stand with eight other per-

sons in ordinary clothes, all of whom were non-Sikhs, and he was told that he was at liberty to choose any position he liked. The prisoner objected that the tell-tale scars on his face would give him away, and that all the police need do was to tell the witnesses to pick out the man with five scars on his face. He also complained to the magistrate that a police officer had shown him to the witnesses on June 26, the very day he was brought to Ambala. The cloth with which he had covered his face was forcibly removed, and his face was exposed to the view of witnesses. The magistrate made a note of this complaint, and then he did a most extraordinary thing: he allowed the alleged Amrik Singh to paste two pieces of paper on his face so that they covered and completely concealed four of his five scars. He was allowed to wear his turban, so that the fifth scar on the left eyebrow was also hidden. Similar pieces of paper were pasted on the faces of all the remaining eight persons who were taking part in the parade. They were also asked to pull their turbans forward and over the left eyebrow. The row of nine men presented a ridiculous tableau, as if it were part of a farcial scene from a comic pantomime.

The witnesses were then called in, one by one. The first to come was Gurbux Singh, one of those persons who had been present in Labh Singh's house at the time of the shooting. He looked at the row of caricatured faces and saw bits and pieces of human physiognomy like several portions of a jigsaw puzzle put together by a crazy hand. He asked if the turbans at least could be pushed back a little. His request was refused at first, but when he confessed his inability to make anything out of such inadequate data the magistrate ordered that the turbans be restored to their normal positions. Gurbux Singh had another look at

the nine men, and pointed out Amar Sarup as the man who had murdered Labh Singh.

Ram Rakhi, the wife of Labh Singh and the mother-in-law of Amrik Singh, was the next witness called. She pleaded that she was suffering from cataract of the eyes and her vision was very weak. She also wanted the turbans to be pushed back, but despite this concession she passed by Amar Sarup and picked out another man as her husband's murderer.

Jaipal Kaur was now called in. She wanted the pieces of paper pasted on the faces of the men to be removed, but this request was not acceded to. She wanted the turbans pushed back, the magistrate did not agree and asked her to pick out her husband from the row of men before her. She was in a state of tense nervous excitement. The accumulated memories of what she had suffered in mind and body during her brief association with Amrik Singh or perhaps the religious fear of becoming a weapon of revenge against her own husband dulled her faculties and weakened her power of observation. Or it may have been nothing more than the strange and fearful environment of the goal and the presence of a magistrate urging her to do her job quickly—the unfortunate fact remains that, though ultimately paper patches were removed and the turbans were pushed back, she picked out one Radha Kishen and not Amar Sarup, prisoner. To make matters worse, she asked this Radha Kishen to speak. Radha Kishen spoke a few sentences and Jaipal Kaur re-affirmed her original erroneous choice.

Sub-Inspector Radha Kishen was puzzled. He had naturally hoped to base his entire case on Jaipal Kaur's evidence, and, with her failure to identify the prisoner as Amrik Singh, the very foundations seemed to be crumbling. He could not make up his mind if it was a case of honest mistake or deliberate per-

version of truth, for some reason best known to Jai-pal Kaur. He still had Amrik Singh's identity card with Amrik Singh's thumb-print on it. He obtained the card from the police property room and secured Amar Sarup's fingerprints in the presence of a magistrate. On July 4 he sent the identity card and the test prints to the Fingerprint Bureau at Phillaur. The reply was received within a few days—the two prints tallied and were taken from the same thumb.

This was conclusive proof of Amar Sarup's identity, and the police felt their task was done. They had, however, to convince not only themselves but also the court, so the investigation was continued and a few loose ends that remained were gathered together. The results were not completely satisfactory. The gaol register of 1950 contained entries relating to Amrik Singh's admission as an under-trial prisoner. His thumbprint had been taken in the register. But when the police came to examine this register they found that the page in question was missing. It had been torn and removed by someone. This register and all other old registers were stored in one of the barracks inside the gaol for lack of proper record room. The barrack was used for drafting applications and other documents on behalf of prisoners. The door always remained open, and literate prisoners who did their own drafting were allowed free access to it. Under-trial prisoners, even when they are charged with serious offences, are allowed a great deal of freedom of movement inside the gaol precincts, and the explanation of the missing page as given by the prosecution was that the prisoner, knowing its existence, removed it at an opportune moment. He certainly visited this room on several occasions, because he wrote several petitions and applications on a variety of subjects. The prisoner, of course, maintained that the page was re-

moved and destroyed by the police when it was discovered that the thumb impression of Amrik Singh did not tally with the thumb impression of Amar Sarup.

Strangely enough, the significance of the cloak-room receipt bearing Baljeet Kaur's name and signature was completely overlooked, and the prosecution did not call her as a witness at the trial.

Despite the disappointing, indeed damaging, result of the identification parade held on June 30, the police arranged another parade for Capt. Menon, under whom Amrik Singh had served for some time. But this parade proved no more satisfactory than the first one. Capt. Menon was unable to identify Amar Sarup with the Amrik Singh whom he knew as the civilian gazetted officer whose identity card he had signed. The police were now quite content to leave matters as they were and let the law take its normal course. The formality of the magisterial enquiry was concluded, and the prisoner, Amar Sarup or Amrik Singh, was committed to stand his trial at the Court of Session.

The hearing of the case opened before the Additional Sessions Judge of Ambala on September 16, 1954, and concluded on September 27. Thirty-six witnesses were examined by the prosecution and twenty-three by the defence. The prisoner made no attempt to challenge the truth of the charges against Amrik Singh. His sole line of defence was that he was not Amrik Singh, but a totally different individual, Amar Sarup, who might bear some slight resemblance to the real culprit, but who, in reality, was merely the innocent victim of a most unfortunate error.

The defence called a number of witnesses from Benares to depose that they knew Dr. Amar Sarup and had seen him practising the profession of a hom-

oeopath and **ayurvedic hakim** at Benares. None of them had, however, met him or seen him before October 1950. Indeed the prisoner could not produce any evidence which could have shown that Dr. Amar Sarup had any existence anywhere before October 1950. It will be remembered that Amrik Singh escaped from police custody in April 1950.

Amar Sarup had apparently no relatives living anywhere in India; at any rate none were named or called at the trial. It was suggested by his counsel that they had all perished during the communal riots of 1947. Nor was the prisoner able to name any friends or acquaintances from Lyallpur. He had lost all contact with them after the partition of the country. No attempt was made to obtain evidence of his having graduated from the Punjab University, though this could easily have been done, for it is difficult to get copies of university records from Pakistan and copies of matriculation or graduation certificates are frequently requisitioned and obtained from Lahore. The prisoner, in order to secure better treatment in gaol, had represented that he was a doctor and a Bachelor of Arts of the Punjab University; as such, he was used to a higher standard of living than the other inmates, and was entitled to certain privileges which are usually allowed to A class prisoners. Later, when he realised that graduation at a university is a matter of record, he may have regretted his indiscretion.

Amrik Singh belonged to Hoshiarpur in East Punjab, and many of his relatives were alive and were available for examination at the trial. They could have thrown a flood of light on the prisoner's identity; at least they could have stated whether he was Amrik Singh or not. But strangely enough none of them was produced either by the prosecution or by the defence. One of them did, indeed, come

very near to being examined as a witness. This was Baljeet Kaur, the first wife of Amrik Singh. The prisoner summoned her as a defence witness. She was present but was given up. The reasons stated for this remarkable shirking of an important duty are wholly unconvincing. It was argued that the prosecution was reluctant to move in the matter because Amrik Singh's relations were not likely to help in getting him convicted of murder and, therefore, they would not support the prosecution by saying that the man in the dock was Amrik Singh. They would almost certainly be prepared to perjure themselves and swear that he was some other person. The prisoner, on the other hand, was afraid to examine any of these persons because, owing to their relationship with Amrik Singh, they would falsely say that he was Amrik Singh in an endeavour to get him hanged for the crime of the real Amrik Singh, who would thereby be saved. This reasoning was faulty, but the fact remains that Amrik Singh's relatives were conspicuous by their absence at the trial.

Much capital was sought to be made of the missing page in the gaol register. It was said on behalf of the defence that the police had destroyed this piece of evidence because the thumb-impression of Amrik Singh in the register did not tally with the prisoner's thumb-impression. The evidentiary value of the identity card was also assailed on the ground that the thumb-impression upon it had been forcibly obtained after the arrest of Amar Sarup on June 26. His counsel argued that a literate person who is capable of signing his name is never asked to undergo the humiliating experience of giving his fingerprints. Amrik Singh was a graduate, and he must only have signed his name on the identity card. The space provided for the thumb-impression had been left blank, and it was

some time after June 26, 1953, that the police had compelled the prisoner to place his thumb-impression on the card. But Capt. Menon, examined by the prosecution, stated quite clearly and unequivocally that Amrik Singh's thumb-impression was taken in addition to his signature, and when the card was placed before him for attestation the thumb-impression was on the card. He went on to explain that the form of the cards had been subsequently modified, and the practice of obtaining both signatures and thumb-impressions had now been discontinued. The more recent type of identity card prescribed for civilian officers mentioned in express terms that signature **or** thumb-impression was to be affixed, whereas the old type—the kind issued to Amrik Singh—required both. Capt. Menon's statement, therefore, nullified the evidence of Civil Administrative Officer Mohinder Singh, witness for the defence, who produced his own identity card for the inspection of the court in order to show that literate persons signed their cards and were not expected to place their thumb-impressions on it. His card did not bear any thumb-impression, but his was a card of the later type and the word **or** printed prominently on it gave the card-holder the option of a choice between signing his name and placing his thumb-impression upon it, whereas the identity card recovered from Amrik Singh did not have the word **or** on it.

An attempt was made to show that the prisoner was flat-footed, and therefore could not have been employed by the Army. The prisoner's complaint of May 5, 1954, furnished another argument. It was alleged that the police had inflicted an injury on his right ring finger to create a mark corresponding to the mark of identification mentioned on the identity card. It will be noticed that this complaint was made nearly

a year after the prisoner's arrest. The police were alive to the importance of the identity card, and had, as early as July 4, 1953, taken steps to have the thumb-impression examined by an expert. It is very unlikely that they should have waited for ten months before creating an unimportant and minor piece of evidence. The doctor who examined him found only a tiny scratch which in his opinion could have been self-inflicted.

It was, however, the identification parade of June 26 which attracted the spear-point of the attack on the prosecution. Jaipal Kaur had failed to identify the prisoner, and had picked out a total stranger as her husband. Granted that Amrik Singh was a bearded Sikh, and the man who confronted her at the parade had a shaven face, granted that her conjugal life did not last for more than a few months, and it was more than three years since she had seen her husband, but surely a woman cannot be deceived in the general appearance of the man with whom she has lived on terms of the closest intimacy. She cannot forget the look in his eyes and cannot mistake his voice for that of another; yet Jaipal Kaur had done all these things. At the trial, no doubt, she had stated on oath that the prisoner in the dock was her husband Amrik Singh, but of what value was her sworn testimony when matched with her dismal failure on the earlier occasion, which alone provided the real test of her veracity and her good faith as a witness for the prosecution?

The prisoner had complained to the magistrate who held the identification parade that the police had shown him to the witnesses. But this was only an attempt to nullify the results of the identification made before he could anticipate that the proceedings would

end in a fiasco. Indeed, there was no defence which he could have raised at the trial which was not put forward and pressed vehemently; but nothing availed the prisoner. All four assessors who were assisting the Sessions Judge at the trial expressed the opinion that Amar Sarup, prisoner, was no other than Amrik Singh, the man responsible for the murder of Labh Singh and for the attempts on the lives of Jaipal Kaur and Amar Nath and on his own life. The judge was not bound to act on the opinion of the assessors, but he found himself in complete agreement with them, and came to the conclusion that, despite certain lacunae and apparent flaws in the case for the prosecution, there was ample material to sustain the charge of murder. So he convicted Amrik Singh, alias Amar Sarup, upon all charges and sentenced him to death upon the charge of murder, and awarded sentences of seven years, seven years and six months' rigorous imprisonment on the remaining three charges of attempted murder and suicide.

According to Indian law, a sentence of death awarded by a court subordinate to the High Court cannot be carried out until the whole case has been reviewed and the sentence of death confirmed by the High Court. The convict also has a right of appeal. Amrik Singh drafted a lengthy memorandum of appeal in his own hand and sent it to the High Court. The appeal and the reference for the confirmation of the death sentence came up for hearing before a Division Bench consisting of two judges of the Punjab High Court. The foremost criminal lawyer of the Punjab was briefed to argue the appeal.

The question in appeal as at the original trial was not whether Amrik Singh, son of Teja Singh, was guilty of the crimes attributed to him, but whether the man who had been convicted of those crimes and was

the appellant before the High Court was the same Amrik Singh or a totally different person named Amar Sarup, son of Tej Sarup. The bench hearing the appeal commented adversely upon the failure of the prosecution and of the defence to examine certain witnesses and decided to probe further into the matter. So, in exercise of powers given by law, we summoned Baljeet Kaur and S. Sewa Singh, the husband of Amrik Singh's sister. The examination of these two witnesses produced some remarkable results, but did not materially affect the ultimate decision.

Baljeet Kaur looked at the appellant minutely and carefully, and shook her head. She stated quite positively that the man was not her husband and did not even resemble him at close quarters. She denied that she had signed her name on the cloak-room receipt recovered from the appellant on the day of his arrest. The judges, however, observed that her signature bore a surprisingly striking resemblance to the signature on the receipt.

S. Sewa Singh was a member of the subordinate judiciary of the Punjab State. We looked upon him as a responsible individual, who would do his utmost to further the ends of justice, and not make evasive or non-committal replies to the questions put to him. But all he choose to say was that he was not quite certain.

'Are you prepared to say,' he was asked, 'definitely whether the appellant present in this court now is Amrik Singh or not Amrik Singh?'

Sewa Singh replied: 'I cannot say one way or the other. He does resemble Amrik Singh. His facial appearance has changed a great deal. His voice seems to be similar to that of Amrik Singh.'

This was disappointing, and the evidence of these two witnesses did not carry the case much further.

On the other hand nothing that either of them said constituted a rebuttal of the prosecution case. Indeed, to some extent at least, the prosecution had cause to feel gratified. Baljeet Kaur's statement was no more than a piece of interested evidence, and the reluctance of Sewa Singh to make a categorical statement was an indication of his secret conviction that the prisoner was indeed his brother-in-law, who could be saved from the gallows by creating a doubt regarding his identity in the mind of the court. The impression which this evidence left on the mind of the court was certainly not favourable to the defence.

And so, when the judges reviewed the whole case and considered the cumulative weight of the evidence against the prisoner, they came to the conclusion that the appellant was no other than Amrik Singh. Apart from the positively incriminating thumb-impression on the identity card and the numerous marks on the appellant's person, there were several matters which, though inconsiderable when standing by themselves, acquired a most telling significance when taken together. Amrik Singh had changed his name to Amar Sarup and had become a non-Sikh, but he had retained the initials A. S. He had even retained the initials of his father's name, which from Teja Singh became Tej Sarup. It is a curious and instructive feature of cases involving change of identity that the new name has the same initials as the old one. One might say that in the process of metamorphosis the flesh and the outer skin are changed, but there is a reluctance to discard the skeleton. Then again, the prisoner was unable to prove the existence of Amar Sarup before October 1950. There was no evidence of the prisoner having graduated from a college in Lyallpur, though had such evidence existed it could certainly have been produced. The somewhat naive attempt to show that

the police had injured him on the right ring finger to create a mark which would correspond with the mark mentioned in Amrik Singh's identity card was promptly frustrated when the magistrate ordered an immediate medical examination of his person. His failure to call a single one of Amrik Singh's relatives, his display of the bluffing and blustering methods of Amrik Singh, his silence regarding the identity and whereabouts of the Baljeet Kaur who had signed the cloak-room receipt, were all matters which, when considered, were like small positive fractions totalling up to the unity of clear, unmistakable guilt beyond all doubt.

The appeal was dismissed, but while dealing with the question of sentence my learned colleague, Mr. Justice Falshaw, who delivered the judgment of the court, observed.

It is to be noted that although the learned counsel for the appellant devoted most of his arguments to trying to convince us that the appellant was not Amrik Singh, he also sought to raise the plea of mitigating circumstances as a ground for and imposing the sentence of death and reducing the sentence of the appellant to transportation for life. This argument, although wholly inconsistent with the rest of the arguments, does not seem to me to be wholly devoid of force. It is quite clear from the evidence that on the day of the occurrence Amrik Singh was in a somewhat overwrought state. The evidence in fact, appears to indicate that he had gone primarily with the idea of securing the return of his wife, Jaipal Kaur, and with the underlying idea that, if he proved unsuccessful in this object, he would kill both her and himself. It so happened, however, that his efforts to kill her and himself were

unsuccessful and the fatal shooting of her father, Labh Singh, appears to have taken place in the course of the struggle in which the accused had completely lost his head. The whole affair appears to be the outcome of desperation arising from thwarted passion, and, on the whole, I am inclined to view that there are sufficient grounds for reducing the sentence.

The sentence imposed by the High Court was a sentence of imprisonment for life upon the charge of murder together with concurrent sentences awarded by the trial court upon the remaining charges.

EIGHT

PATTERNS OF MURDER

(i)

IT was seven o'clock on the morning of a sweltering hot day in the middle of June. The burning sun stood spearhigh and the sandy fields were already hot enough to parch gram. The Hissar countryside is like that, vast tracts of sandy ground to which canal irrigation has brought prosperity; but when the wheat crop has been reaped, and the land is being prepared for the winter crops, the dry earth bakes under the summer sun and throws back the heat like a large open oven. Nar Singh, a young Jat, was walking along the narrow footpath which led to his fields. He had, as usual, hidden his pistol under his shirt. It was loaded with one 12-bore English-made cartridge, for

the pistol had been hammered out by some village blacksmith, and the barrel was large enough to admit cartridges of an easily procurable bore. Its barrel was crude and unpolished, the trigger did not always work, but when it fired it was an effective weapon at anything up to ten feet. He had acquired it only a week ago after a whole month's striving—firearms were becoming rarer every year and illicit weapons were not easy to come by. But there at last the weapon was, snugly tucked into the fold of his loin-cloth. It had been there every day for the past week. But he could wait. He had waited for more than three years. His wife's ravisher could not escape him. Unlike his two friends and accomplices, he had decided to come home, for he had a piece of land which he could not abandon. Yes, said Nar Singh to himself, he would wait.

Suddenly he saw him near the dilapidated hut in the shade of which he must have sat down to rest. He had a bundle containing grain on his head, a spade on one shoulder, a dozen chapatis in one hand and an earthen vessel full of whey in the other. He was going to his field to work and was taking his midday meal with him. A few paces ahead walked his brother with a wooden plough slung over his shoulder.

Nar Singh made a slight detour and, quickening his pace, came up to within six feet of his victim, and then he fired. Hakam Singh fell down, the earthen pot broke, spilling the whey, the chapatis were scattered around him and the bundle containing jowar lay in an untidy heap near his feet. Nar Singh quickly reloaded his pistol, but when Hakam Singh's brother ran back to the hut he put back the weapon and, taking a step forward, picked up Hakam Singh's spade and began to hack him. He raised the spade

and brought it down with all the force of his 23 years eight times, till he was quite sure that his indignity had been adequately avenged.

Hakam Singh and his two accomplices had been tried for raping Nar Singh's wife. They had been convicted and sentenced to four years' imprisonment with hard labour, but this was not retribution enough. Judges were too lenient and the law they administered was defective. It did not take into account the disgrace, the mortification, the mental torture a man suffered when everyone in the village knew that his wife had been raped by a low-caste potter. So, when Hakam Singh came back home after serving his sentence, Nar Singh acted as prosecutor, judge and executioner, and regained his lost prestige in the village.

He was tried upon the charge of murder and convicted. His youth and the dishonour to which he had been subjected by his wife's ravisher were considered extenuating circumstances, and he was awarded the lesser sentence of imprisonment for life. His appeal was dismissed by the High Court.

(ii)

Gurdial Singh was convinced that Kapur Singh was at the bottom of the whole thing. He had no proof and could not lay his finger on anything tangible or definite, but the smug expression on the man's face could mean nothing else. And it was a fact that he (Kapur Singh) had been allotted land of far better quality than the land he had been cultivating before the consolidation proceedings began. His new field was nearer the village and the soil was richer, whereas his own allotment was twice as far as his original field, and the quality of soil was certainly not as good. Kapur Singh had a way of ingratiating himself with

officials. He fawned upon them and cringed before them, and God knows what else he did to please them, for they seemed to play into his hands.

A week after the consolidation proceedings were concluded, Gurdial Singh went to Kapur Singh's house and gave him a piece of his mind. Kapur Singh answered back, repudiating the suggestion that he was in any way responsible for the imagined injustice.

'Why don't you go to the officers,' he retorted, 'and tell them what your grievance is? Don't come here, shouting and quarrelling with me. Do what the law allows.'

Gurdial Singh went back in a huff. The more he thought over the matter the more indignant he felt. 'Not only had Kapur Singh intrigued against him and prevailed upon the consolidation officers to allot a piece of inferior land to him, but he had the effrontery to deny his wickedness and speak to him with so much rudeness. It was imperative that he be taught a lesson. Life in the village would become intolerable if this kind of thing were allowed to continue. So, the next day he called five of his friends and, armed with two spears and four hatchets, they went to Kapur Singh's house. Kapur Singh and his two sons aged 25 and 19 respectively were sitting and chatting in the courtyard. It was pointless to waste time over explanations and arguments, and Gurdial Singh at once plunged his spear into Kapur Singh's abdomen. Three of his companions followed suit with well-aimed hatchet blows. The two young men tried to go to the rescue of their father, but they, too, were attacked. One of them received six injuries and the other five, but they were fortunate enough to survive and appear as witnesses at the trial of the six assailants.

The case against Gurdial Singh and his companions was clear and convincing. Gurdial Singh was award-

ed the death sentence and the remaining five were sentenced to imprisonment for life. In appeal Gurdial Singh's sentence was also reduced to the term of imprisonment for life.

(iii)

There is a saying that three z's are responsible for all murders—**zār** (money), **zamin** (land) **zan** (woman). **Zamin**, of course, includes rights in land and all kinds of disputes about immovable property. The most important of these to the Punjab cultivator is the right to irrigate his land and bring the water to his field from the canal or well which provides the supply.

Bachan Singh of Chhachhowal village, in the district of Jullundur, was allotted land which was irrigated by Maricwala well. The entire block of fields which received water from this well had belonged to a Muslim landlord who migrated to Pakistan in 1947. Portions of this block were allotted to refugees who had land in West Punjab to compensate them for their loss and to provide them with the means of livelihood. There was not enough Muslim-owned land to go round if every refugee were allotted an area equal to what he had left behind. Also there were some false and inflated claims. It took many years to verify the holdings of every refugee by obtaining the evidence of the original revenue records from Pakistan, and in the meantime allotments were made on the basis of whatever evidence the refugee claimant could produce. Often, the evidence consisted of no more than an affidavit reinforced by the factum of possession of evacuee land, for by far the vast majority of refugees had simply squatted on the first piece of vacant land which pleased their fancy. When conditions became more settled and the assessment of claims was finalis-

ed, some of the squatters had to move, others had to surrender the excess area in their possession. This gave rise to bitter quarrels, for every squatter wanted to hold on to what he had appropriated with grim determination. So, Bachan Singh expressed his resentment in no uncertain terms when his newly installed neighbour, Labh Singh, not only took over part of his holding but also began to make a fuss about the position of the watercourse which ran right through his field. He had the right, he said, to construct another watercourse which would serve his land as well as the land of Bachan Singh and at the same time not cut right across his field. Bachan Singh protested, as this would increase the length of the watercourse and cause a diminution in the supply of water to his fields. Labh Singh treated Bachan Singh's protest with scorn, and demolished the watercourse. Bachan Singh appealed to the village **panchayat**, and Labh Singh was called upon to state his case and explain why he had taken the law into his own hands. A compromise was eventually arrived at, and Labh Singh agreed to let the watercourse stay in its original position. But Labh Singh was not happy about the settlement. His rich field was slit in two, making the business of ploughing and preparing his land somewhat irksome. In the months that followed, his chagrin continued to mount till it assumed the proportions of a categorical imperative. The watercourse simply had to go, and go it did. Labh Singh and his two grown-up sons went to the fields one morning in the beginning of June and levelled the watercourse with their spades. The job was completed in a few minutes, and the three men stood near Bachan Singh's field flaunting their victory and defying anyone to undo what they had done.

Bachan Singh had no wish to accept the challenge, and he went to the police and made a report about what had happened. He added that he feared Labh Singh and his sons would use violence against his person and disturb the public peace. The police made a brief enquiry into the matter and referred the case to a magistrate. The magistrate took a light and far too optimistic a view of the matter. Really, he said to himself, one can't go binding down people and demanding security from them just because a few yards of a watercourse have been filled in with earth. So, holding that there was no real danger of a breach of public peace, he declined to take action and dismissed the case.

Labh Singh was not content to exult over the defeat of his adversary, and his exuberance had to be expressed in a more satisfying form. So the very next day he called his sons, and the three men went to the well with their **kirpans**.* Bachan Singh and his sons were collecting fodder for their cattle. There was no time to protest or run away. The first blow was dealt by Labh Singh, and with one stroke of his **kirpan** he cut through the leg of Bachan Singh's elder son, severing it completely from the knee downwards. Labh Singh's sons followed the lead given by their father, and in the matter of a few seconds Bachan Singh's second son lay dead with a broken skull and Bachan Singh himself had received several **kirpan** in-

* A sword which is one of the five K's which a Sikh is enjoined to wear as the symbols of his religious faith. A Sikh may carry a **kirpan** without a licence, and in the village to see a young Sikh going about his business armed with a kirpan is not an uncommon sight and does not arouse comment.

juries. Both he and his elder son, however, lived to testify against their assailants.

Labh Singh and both his sons were sentenced to imprisonment for life on the charge of murder and, in addition, to three years' imprisonment on the charge of causing grievous hurt. Their appeal was dismissed by the High Court. There was a private petition by Bachan Singh praying that the murderers be sentenced to death, but we declined to enhance the sentence on a private petition.

(iv)

This happened in Langiana, a small Jat village in the district of Ferozepore, near the Indo-Pakistan border.

When Godha Singh's father was killed in a drunken brawl with his cousins, he found himself owner of sixteen acres of land, two houses, a pair of sturdy oxen, two she-buffaloes, a wife, two young sons and a daughter, and a widowed mother. Godha Singh had no need to prepare an inventory of his possessions or make an assessment of their value. He knew the exact worth of each item and to what use it could be put.

The land was of the rich sandy loam variety which is a peculiarity of the alluvial soil of this region. It fills the ears of wheat with large meaty grains, and produces gram of a high quality which fattens cattle and provides protein-rich diet for the villager and several nourishing and toothsome dishes for the townsman. Of the two houses, one consisting of two rooms, a kitchen and a courtyard with a long mud-plastered cattle-trough on one side of it, was situated in the centre of the village, and the other comprising a single room and a cattle-pen lay on the edge of the small habitation. The oxen were sturdy, well-trained ani-

mals accustomed to do his bidding. In obedience to his loudly uttered obscenities they would drag the heavy point of his plough and make it tear up the crust of the earth, leaving deep receptive furrows. They would march round and round in a small circle turning the gear of the Persian wheel which brought water up from the bowels of the earth, or tread blind-folded over the crisp golden sheaves of wheat, crushing them into small pieces till the grains tumbled out of their husks to provide food for his family and dry fodder for his animals. Each of his she-buffaloes gave him a bellyful of rich creamy milk every morning at dawn and again as the sun was setting.

His wife, Chinto, was a tall buxom woman of 25 who walked erect with two huge pitchers of water balanced upon her head and a third resting between her hip and the crook of her arm. She moved with an easy grace, swinging her legs straight from the hips. She had strong muscular arms which could carry a sack of wheat weighing two hundred and five pounds right across the courtyard of their house, or hold Godha Singh in a tight embrace till he felt his ribs crack, and this was no ordinary feat, for Godha Singh was as strong as one of his oxen, and had as massive a frame.

His little children were plump and filthy like all village children and much more unruly. They would soon grow up, and, while the boys relieved him of the gruelling labour in the fields which his quarrelsome father had left him to do single-handed, the girl would fetch a good price when someone came to ask for her hand. The widowed mother was a cantankerous old hag whom nothing pleased. But she would not live very long, and if she became really troublesome he would know how to deal with her.

For Langiana is one of those small border villages in the territory of the Baghapurana police station where men are close to Mother Earth and live a vigorous elemental life, taking it as it comes, raw and unadulterated like the liquor they make. The police station is six miles away, and scores are settled on the spot without reference to the arm of the law and without fear of consequences. The region enjoys a reputation for being perpetually turbulent and irrepressible. It was so in the days of the British Raj when only a fearless or a corrupt Sub-Inspector of Police could be persuaded to go there, and it is so today in republican India. Thefts, dacoities, murders and abductions have always constituted the normal spare-time activity of the inhabitants, and since the chances of an offender being convicted or acquitted are approximately equal, the thrill of gambling with high stakes adds to the lust for an uninhibited and full-blooded life.

On the partition of the country, hordes of refugees poured across the border and related tales of what had happened in the land which was no longer their home. The people of Langiana were not afflicted with grief when they heard that their kinsmen had been killed and looted and their womenfolk raped. But they were angry and very soon their anger found an outlet.

The creation of Pakistan meant an exchange of population, and before many days had gone by thousands of men, women and children, hungry, destitute and footsore were going towards the border to find new homes. Upon them the men of Langiana vented their rage. They killed, raped and looted in full view of the guards escorting the miserable caravans. Godha Singh took more than his legitimate share. He dragged away one terrified woman after another and made

her expiate the sins of someone who had never known or heard of her, while her husband and children stood petrified, horror frozen on their faces. Godha Singh was not impelled by anger or by a desire for revenge. For him it was a God-given occasion to do something he heartily enjoyed. He had always relished life in the raw, and now he got his bellyful of it.

But when Godha Singh became his own master and took charge of his father's possessions, Partition was still a long way away. Not that he had much to learn from that event. His appetites had always been lusty, and he never scrupled to satisfy them. He ate heartily three times a day, wolfing his food in large mouthfuls and washing it down with great gulps of buttermilk. Twice a day he drank milk, five pints at a time. He liked it as it came from the she-buffalo, topped with creamy froth and its flavour unimpaired by boiling. He would pick up the brass bucket, raise it to his big mouth and drain it in one long draught. Then he would drop the empty bucket, watch it roll away with a rattling sound, suck in the bubbles caught by his moustache and belch loudly, producing a resonant boom that went reverberating along the mud-plastered walls of his house.

The liquor contractor's shop was in a larger village five miles away. In any case licit liquor is too expensive. The law permits the purchase and possession of only one bottle at a time by one person, and what would Godha Singh do with just one bottle? It wouldn't even take away that dry sticky taste in his mouth. So, whenever the illicit still was working, he drank copiously, blowing on the hot noisome liquid and drawing it into his mouth in long noisy sips. On special occasions like the midwinter festival of Lohri, the springtime festivities of Holi, the New Year day on Baisakhi, and Diwali, the great festival of lights,

he drank a gallon of the flaming potion and joined the villagers in singing the traditional folk songs with their obscene phrases and catchy tunes. When he came home late at night, he woke up Chinto and fell upon her like a hungry wolf attacking his prey.

When the harvest was reaped he kept enough grain and chaff for his own needs and made the rest over to the village **bania**.* The **bania** made him affix his thumb-print to a writing in his account-book and asked him how much loan he wanted. Godha Singh took whatever money he needed after a certain amount of haggling, and pressed his ink-smearing thumb to another page in the account-book. He did not know the state of his account with the **bania**, but if he had ever suspected that he was being cheated he would have gone up to the wretched little shopkeeper and wrung his neck without using both hands.

As the years passed, Godha Singh's hunger and his lust for life increased. Chinto bore him child after child till she was mother of six sons and three daughters. At forty she was a worn-out woman, prematurely old, her strength drained away and her buxom flesh shrivelled up. She still stood tall and erect, but her face was a network of creases, there were deep trenches on either side of her mouth and her eyes had lost the brightness and the fire of defiance which used to daunt Godha Singh when he was sober. On her forehead there was a perpetual frown as if she were in pain. And who knows if she wasn't after the mauling and battering she had received from her husband in the course of twenty years.

So the years came and went, while her sorrows piled up.

* Money-lender.

Yet there were compensations in her life. Her elder sons grew up and took over much of the burden and responsibility of cultivation. Her daughters relieved her of some of the household chores. The children took her side in her conflicts with Godha Singh, which now became more frequent and more acrid. It was easy to provide for eleven mouths if Godha Singh wanted not only a lion's share of everything but extra money to spend on liquor and women. Godha Singh made no secret of the fact that he wanted other women when his wife would not come to him. He had tasted blood during the days when Freedom first came to India, and he was now constantly on the hunt. Chinto was nearly fifty, and there were times when he wanted the feel of younger and firmer flesh.

'Ohey Mundra,' he would say to his eldest son, 'ask your mother why I must go to another woman.'

Chinto did not grudge him his infidelities and his bouts of drunkenness. Their code of morals regarded this sort of things as a mere peccadillo. Besides, she had reached the age when she wanted to be left alone. Two of her sons had brought home wives and her eldest daughter, Deepo, was married. The son-in-law was a good man and lived in a neighbouring village. Her other children were growing up, and she felt contented when she looked round at the sizeable group which constituted her family.

One afternoon in late April when the weather was warming up Godha Singh went to a neighbouring village to drink with a friend. When he arrived there after a hot and dusty walk of two miles he learnt that the friend was away. He retraced his steps, and by the time he reached home he was not only sober but extremely hot and irritable. He found his entire family resting or sleeping. The little ones, three boys and two girls, lay sprawled in one room on the floor,

their limbs criss-crossing and making a confused pattern which covered the homespun cotton sheet Chinto had spread for them, and spilling over on to the mud-plastered margins. In the other room his three older sons and his wife of the eldest one were sleeping. Chinto and her second daughter-in-law, Mukhtiaro, were sitting outside and spinning.

As Godha Singh gazed at this scene of tranquil indifference his temper rose and suddenly burst out of him. He uttered a fiendish yell and, taking hold of Chinto's arm, pulled her up to her feet. The spinning-wheel turned over and fell on its side. Chinto screamed and Mukhtiaro looked at her father-in-law with a mixture of fear and wonderment. With one brutal jerk of his free hand Godha Singh broke the string of Chinto's trousers and knocked her down.

'Don't do it, don't do it,' she moaned, her soul revolting at the shameful brutality of her husband's deed. 'Don't dishonour me in front of my sons and my daughters-in-law.'

But a demon had taken possession of Godha Singh. The novel barbarity of his act gave him a new kind of fiendish delight, and he continued regardless of ten pairs of horrified eyes which he knew were looking at him.

The tribal taboo, if such a thing exists, was broken and Godha Singh had tasted forbidden blood. A few days later his appetite for the monstrous returned. Chinto tried to fight back, and spat abuses at him, but she was like a piece of weak straw in his hands. His sons threatened him with violence, but, shamed by the sight of what was happening to their mother, they turned their backs upon the scene, groaning with the fury of impotent rage. No words were spoken between them, but each one determined that such a thing must not be repeated. So, when they saw the same fiend-

dish look in their father's face a week later, they picked up their clubs and without a word of protest or warning they fell upon him as one man. Godha Singh called them by the foulest names he could think of, he hurled at them every imprecation he knew and every abuse in his vast vocabulary of obscenity, but he was empty-handed and outnumbered. Five minutes later he lay in front of his house, a wriggling heap alternately cursing and groaning. One of his legs was broken and his whole body ached. The bruises on his back and legs were alive with a piercing pain that stung him in several places at once and then ran all over his body, stabbing and biting into his flesh.

His sons put him on a bullock cart and drove him to a village dispensary five miles away. The doctor set the bone and put a plaster cast round his leg. All the way to the dispensary and back Godha Singh abused his sons and his wife, but the sons made no answer to him. They sat behind the bullock talking to each other in low tones. On reaching the house they lifted him out of the cart and carried him to a cot. When Godha Singh bit the arm that held him and dug his teeth into the flesh and drew blood, his son slapped him hard on the face with the other hand, but did not draw away the injured arm.

As soon as Godha Singh was able to get up and hobble around, he went to the village **panchayat** and laid a formal complaint against his married sons and their wives. The elders knew the whole story from beginning to end. They called the parties complained against by means of summons stamped with the seal of the **panchayat**. They suggested a compromise, and made it clear to both parties and particularly to Godha Singh that they were not prepared to punish the sons for what they had done nor restrict their

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future freedom by demanding security bonds from them.

So it was decided that Godha Singh would live separately in the second house, and he would be given one of the two she-buffaloes which were in milk and also a quantity of grain. Chinto and all the children would continue to occupy the bigger house in the centre of the village. Godha Singh accepted the terms of the compromise and carried his personal belongings to the house allotted to him. He drove his she-buffalo to the next village and made a present of it to his mother's relatives. He returned to Langiana a few days later and began to live by himself. But living by himself meant only sleeping by himself, for he continued to demand his meals and his daily ration of milk and buttermilk from Chinto. He would eat and drink his fill and then go back to his house on the edge of the village.

A few weeks passed like this and everyone thought that matters had, at last, reached a satisfactory conclusion. Then one evening towards the end of August when Godha Singh was tired of doing nothing, he went across to his old house a little earlier than usual.

He found the family at home as he had the day he came home some months ago and made his wife give him what was rightfully his to take. Chinto was spinning as on that occasion, Deepo, the married daughter who had come on a short visit, was weaving a carpet. Mukhtiaro, the elder daughter-in-law, was attending to the fire in the **chuhla**, at the back of which the evening's milk had been placed after being brought to the boil. The pot was to stay there over a gentle heat till all the cream rose to the top. The two married sons and the younger daughter-in-law were standing and watching the cattle eat their evening meal out of the mud-plastered trough. The young-

ger children were romping in front of the house playing a noisy game without any rules or objective.

Suddenly Godha Singh shouted: 'Bring me my milk.' The words exploded out of him like a salvo of cannons.

He waited, an angry menacing figure towering above the scene. In his hand he held a chopper with its thick wooden handle and heavy iron blade, sharp enough to cut through a four-inch bundle of stalks of green **chari**, the fodder plant which cattle relish and thrive on.

He waited, looking as if he expected his command to send the entire family scampering to the pot of milk.

But no one moved. No one scampered. There was no panic. Chinto's spinning-wheel continued its soft hum as she drew her left hand away from the spindle, slowly lengthening the drawn thread, while her right turned the wheel. The continuity of the note was punctuated with momentary pauses when a quick turn of the wheel in the opposite direction allowed the spindle to take up the spun thread on the roll gradually growing on it. Deepo went on with her weaving. The trio near the cattle seemed not even to have noticed the arrival of the old man. The younger children after a moment's interruption resumed their noisy game. Mukhtiaro alone showed awareness of Godha Singh's presence. From her place near the **chuhla** she was looking at him wide-eyed, wondering what he was going to say or do next.

Godha Singh's grip on the handle of his chopper tightened. When he spoke again his voice was like the roar of a jungle beast.

'I said, my milk, you bastards.'

Chinto left her spinning, and from the pot on the **chuhla** poured out more than a pint of milk into a

large metal tumbler, taking care to hold back the floating layer of cream with her finger.

Godha Singh drank the milk in large mouthfuls, pausing two or three times to blow on it. Then he threw the empty tumbler across the courtyard and faced his wife.

'How often have I told you that I want unboiled milk. I don't to drink boiled milk with the cream held back by your finger.' He looked round him at his sons and daughters: 'Are you listening to what I am saying? Why does this — wife of mine give me boiled milk?'

Chinto also looked round at her nine children and two daughters-in-law. She answered him without fear, and there was an edge to her voice when she spoke. She told him that the **panchayat** had decided the matter between them. She had kept her part of the agreement, but he had not. He had given away his she-buffalo to his maternal uncles and continued to drink the milk which her children's share. He had received his portion of the grain, but he continued to eat his meals at her house. The young children had to be given milk, and there just wasn't enough to spare any for him. Why didn't he leave her alone and go to drink milk at his father's house?

Godha Singh cut her short with a gesture of impatience:

'Shut your mouth, woman, and do the thing for which the Creator made you. Take off your trousers.'

But he did not wait for an answer. With a quick jerk he raised his arm and brought the chopper down on her head, and as she fell on the ground he gave her three more blows in quick succession and ran out of the house.

Everyone in the village was certain that Godha Singh would be hanged. But the judge on convicting

him passed the alternative sentence of fourteen years' imprisonment with hard labour. He dwelt at some length on the monstrous barbarity of Godha Singh's crime, but observed that it seemed pointless to hang an old man of sixty who would in all probability not live beyond his term of imprisonment.

NINE

THE MUKERIAN DACOITY

THE dacoity* with murder, committed at Mukerian, a small town on the road to Kashmir, during the night between April 1 and 2, 1957, had several remarkable features, not the least important of which were the daring with which it was executed and the wealth of evidence left behind by the culprits. Even so the fate of the case hung in the balance till the very end, and it was feared that the zeal and industry displayed by the police in tracking down the eight offenders and bringing three of them to trial would be rewarded by no more than a sense of deep and bitter frustration. The police officers of the State from the highest to the lowest watched the progress of the case with anxious eyes. It was a matter of prestige with them, and the honour of the entire police force was at stake. As

* Robbery by five or more persons. Under the Indian Penal Code it is treated as a greatly aggravated form of robbery and is punishable with imprisonment for life and with death if murder is committed in the course of the dacoity.

the head of the District Police remarked, the 'incident was the first of its kind in the history of the Punjab', and it shook every nook and corner of the State so far as the administration of law and order was concerned.

It was, perhaps, the involvement of the police as victims of the grim tragedy, and the sharp blow suffered by the Mukerian section of the force, which put the judiciary on its guard against the danger of giving sanction to a series of what appeared to be reprisals perpetrated by the police after the dastardly crime, or it may have been that the very abundance of the material produced by the prosecution at the trial lent the case an air of artificially designed perfection and laid it open to the charge of fabricating false evidence. It has been my experience that the cases which succeed most easily and with the least effort on the part of the prosecution are those in which the evidence is meagre and of a type which, by its very simplicity, carries conviction. A many-faceted case has some vulnerable points, some weak spots which, when exposed by the critical probe of a clever defence counsel, causes doubts to arise in the judge's mind. It is known that the police do not scruple to introduce false evidence in order to strengthen what seems to them a weak case, and when the matter taken to trial is complete in every respect, with not a single piece or link missing, it is easy to argue that such perfection is not to be found in real life. In the Mukerian case this phenomenon made the task of the prosecution a very difficult one, and it was an uphill fight for them all the way. But there was no lack of enthusiasm at any stage, for the dacoits had stormed one of the police citadels and plundered it; they had killed a head constable and wounded two constables and subjected several more to the indignity of locking them up in

the cell meant for criminals; they had rifled the police safe and removed over a thousand rupees from it; they had carried away firearms and ammunition. Armed with these very weapons they had, a few minutes later, broken into a bank and shot dead the watchman on night duty, and then escaped, in the most brazen fashion, by driving away in a public bus which had been parked for the night and whose driver was forced to start up its engine by being threatened with instant death. The offenders were undoubtedly desperadoes of the worst type, and a desperate remedy was called for.

The police were not found wanting in applying it, nor did they relax their efforts in the slightest degree when it transpired that one of the offenders was a nephew of no other person than the Chief Minister of the Punjab. The culprits were pursued and hunted down with a relentless persistence which took the toll of the lives of four of them. This circumstance alone provided the defence counsel with one of his strongest arguments against the prosecution, and a case which was perfect in every respect began to assume the appearance of being false and faked.

The story of the dacoity was a simple one. Eight persons, some of whom were carrying firearms, went to the police station in Mukerian shortly after midnight on April 1, 1957. One of them presented himself at the front gate and asked the sentry standing just inside the iron grille-door to open it. The sentry asked him who he was and what was his business inside the police station at that hour of the night. 'I want to speak to the Sub-Inspector,' said the stranger. 'The Sub-Inspector is out on patrol duty,' the sentry replied. The stranger began to ask who else was in-

side and who was the officer in charge to whom he could speak.

While these two were engaged in this somewhat aimless conversation, the remaining seven men climbed on to the roof of the building from the back by placing against the wall an old wooden plank which acted as an inclined plane to give access to the roof. They had found this plank in a nearby field where it was being used to fill up a gap in the fence. A stout bamboo pole or the branch of a tree could have served the purpose equally well, for the roof of the police station was not high, and the men taking part in the exploit were experienced thieves and house-breakers.

The building of the police station was planned according to the usual pattern of Government buildings of this type. At the back lay a row of rooms comprising the barracks for the residence of the police personnel and a lock-up for offenders remanded in police custody. A verandah ran in front of these rooms and gave access to an open courtyard which was enclosed by a wall on either side. The entrance to the police station was through a gateway which led into a small vestibule in front of the courtyard. Sant Ram, the constable on sentry duty, was standing in this vestibule with the outer grille-door bolted from inside. The rest of the police personnel consisting of two head constables and three constables were sleeping in the courtyard under the open sky, as it was already too warm to remain indoors at night. The lock-up had one inmate, Lal Masih, a low-caste Christian, who was being tried on the charge of stealing molasses and had been remanded in police custody as no one could be found to furnish bail on his behalf.

Sant Ram had not finished questioning the stranger outside about the purpose of his visit to the police

station when three men jumped down into the courtyard, and by making a rush from behind overpowered the sentry and disarmed him. One of them fired a shot in the air to prove that he and his companions were in earnest. This woke everyone up, and Head Constable Nirbhai Singh sprang up from his cot and tackled the intruders, empty-handed as he was, and caught one of them, who was a Sikh, by the long hair of his head. His companions fired three shots at him in quick succession and Nirbhai Singh, the fearless lion as his name implied, collapsed and died. Shots were also fired from the roof, where four men remained standing and keeping watch. The death of Nirbhai Singh struck terror into the hearts of the remaining policemen, and Lal Masih began to wail helplessly from his small prison through the grille-doorway of which he could see and hear everything. The dacoits now ordered the policemen to stand in a row on the verandah and demanded the keys of the store-room. There was no reply for a moment, and the demand was loudly repeated in words which clearly indicated that the questioner would brook no evasion: 'Incestuous ones, where are the keys? Don't you know that we are lion-killers?' At the same time the dacoit raised his pistol in a threatening gesture. A constable said that Nirbhai Singh always kept the keys. Nirbhai Singh had been wearing only a vest and underdrawers, so the keys must be on his cot. They were found lying under the pillow of his empty bed. In the store-room was a rifle rack in which a number of guns had been placed and secured by means of a staple and lock arrangement. A police constable was led inside and ordered to open the lock. In his nervous fumbling the key broke and the rack could not be opened. But a rifle, a double-barrelled shot-gun, three revolvers, a pistol, four bandoliers and a leather bag containing

thirty cartridges, a signet-ring and a gun licence, which were the personal property of Sub-Inspector Shiv Parshad, were lying loose and were removed. One of the constables was deprived of his wrist-watch when he was seen wearing it. An iron safe embedded in the floor of the vestibule was broken open. It contained a small cash-box which yielded over a thousand rupees in currency notes. These things together with the sentry's rifle were all the booty readily available, and the rifles in the rack had regretfully to be left behind. Before leaving, the dacoits pushed the policemen into the store-room and locked the door from outside. They opened the lock-up and told Lal Masih to run away, but the wretched man was too frightened to avail himself of this opportunity. Besides, he knew that he would certainly be re-arrested and faced not only with the minor charge of a small theft but the much more serious one of escaping from lawful custody. So he begged his liberators to leave him alone for he was a poor low-caste sweeper.

The dacoits now proceeded to the local branch of the Punjab National Bank hardly a furlong away. The bank premises consisted of a single room with a safe for cash and valuables, a steel cabinet for files and registers, a writing-table and some chairs. It was a small branch and was manned by two men, the manager and his clerk. Every day at closing time the safe and the cabinet were locked up and the keys taken away by the manager. The caretaker-cum-peon, who was provided with a shot-gun, acted as night watchman and slept on a cot inside the bank. He always kept the light on and, after fixing wooden shutters to the outer verandah, bolted the door of the bank room. The dacoits broke open the wooden shutters, and through a hole in the door fired a rifle shot into the room. The caretaker jumped up from his bed and,

picking up his gun, began to load it. The dacoits burst into the room and fired two more shots. One of them hit the caretaker and he fell down on his cot groaning with pain and fright. The bullet had passed through his right arm and entered the abdomen. A yellow rectangle of light suddenly appeared in the wall of the house opposite the bank. Seeing it, three of the dacoits came out into the street and fired four or five shots at it. The light was promptly switched off, and the indiscreet resident of the house opposite contented himself by peeping through a small opening in the window to see what was afoot and watch what was going on.

The dacoits were in the meantime looking for the cash and valuables for which they had planned this bold adventure. The steel cabinet was soon broken open, but it revealed only files and registers. The safe absolutely refused to yield its contents. The dacoits hammered on it and tried to prize open the steel door, but their efforts were of no avail. They swore and stormed. It was almost 3 a.m., and reports of distant gunfire were heard. Somebody was blowing a whistle not far away. The dacoits decided to leave unopened what one of them said was an incestuous product of America and hurried away from the bank.

Four hundred yards away was the bus-stand and parking-place. On reaching it a shot was fired, and the Sikh driver of the bus standing nearby got up from his charpoy and began to run away. He was brought back and ordered to start up the engine. One of the dacoits climbed into the driver's seat and told the bus driver to sit beside him. The others took their seats in the rear portion of the bus, and the vehicle was driven away. Two miles from Mukerian the bus was stopped and the driver was told to get off. Leaving him on the roadside, the dacoits drove on for another

few miles and then, abandoning the bus, went their various ways.

Sub-Inspector Shiv Parshad, the officer in charge of the police station, was returning home after making a fruitless search for a boy who had been reported missing. On nearing Mukerian, he sent ahead one of the constables who had accompanied him. The man came back a few minutes later and said that the police station was fired at. Shiv Parshad, too, now heard the report of the gun-fire. Neither he nor his subordinate, who now joined him, had any arms, and, as it would have been an act of unmitigated folly to proceed farther empty-handed, the Sub-Inspector called two residents of Mukerian who had been granted gun licences and were known to possess firearms. This occasioned some delay, and, by the time the police party had taken up their positions on the first floor of a house situated opposite the police station, it was quiet around and in front of them. From the balcony two shots were fired into the air, and the Sub-Inspector blew his whistle long and loudly. He called out the names of the head constable and constables at the police station, but there was no response. Emerging from cover, the Sub-Inspector's party crept slowly towards the gate of the police station. When they were near the door, they heard the sound of another shot which appeared to have been fired near the bus-stand. So the Sub-Inspector led his party to the bus-stand. Someone met them in the way and told them that the dacoits had driven away in a bus going southwards towards Jullundur.

To an Indian policeman the recording of the first information report and the preparation of case diaries is a sacred ritual which must take precedence over everything else. So, instead of pursuing the culprits in another motor vehicle, Shiv Parshad proceeded to

waste much precious time by going back to the police station and drawing up a detailed report of the happenings at the police station as narrated by Sant Ram, the constable who had been on sentry duty. Perhaps, also, he thought it better to stay back and not follow up a trail fraught with immediate and dire danger.

Sant Ram on being liberated from the store-room described the arrival of the dacoits and narrated the story of the enormities perpetrated by them. The Sub-Inspector checked the contents of the store-room, and recorded a complete list of the missing articles at the end of Sant Ram's statement. Fortunately for the prosecution a single sheet of foolscap paper bore Sant Ram's statement and also the list of the stolen goods. The report was prepared in quadruplicate—the original and three carbon copies similar in every respect. It has been explained in a previous chapter that the First Information Report is a very important document, and the very charter of the case for the prosecution. No investigating officer is on any account prepared to omit or slur over this part of his duty. Sometimes one gets the impression that the escape of a criminal, the danger of his committing more offences, the disappearance or destruction of valuable evidence are minor incidents of criminal investigation as compared to the recording of a correct First Information Report. So much of counsel's argument, when the matter goes to court, revolves round the First Information Report, and so many battles are lost and won on the merits of this vital document that negligence in relation to it is pardonably looked upon as the most heinous sin a policeman can commit. In this respect, at least, Sub-Inspector Shiv Parshad was not found wanting. His precaution in writing the list of missing articles on the same sheet of paper on which he had recorded Sant Ram's report furnished

a complete answer to the criticism that the list had been prepared subsequently and attached to the report at a late stage when the police had advanced some way towards completing the investigation and matured their plan. One copy of the report and the list was despatched by special messenger to the magistrate in charge of Mukerian. This was received by him at 10 a.m. the same day. The magistrate noted the time in his own hand and placed his initials on the document. Thereafter it remained in his custody till it was produced at the trial.

The list contained the following items:

1. .303 bore rifle.
2. Verylight pistol.
3. Service revolver of .455 bore and 30 bullets.
4. Another revolver of .455 bore and 10 bullets.
5. Double-barrelled gun and a leather bag containing a silver signetring with the letter 'S.P.' engraved on it, and a gun licence. These were the personal property of Sub-Inspector Shiv Parshad.
6. Revolver of .38 bore deposited in the police station by Flying Officer Naresh Chander, who had come to visit his relatives on leave and did not want his firearm to be lost or stolen.
7. The wrist watch of Achhar Singh, constable, with the name 'Achhar Singh' engraved on its back.
8. The rifle and bayonet of Sant Ram, the constable on sentry duty.

The cash removed from the iron chest was strangely enough not mentioned in this list, though Sant Ram had mentioned it in this statement. -

By the time the formalities of drawing up the First Information Report and despatching one copy of it to the magistrate and the other to the district head of the police were completed, the day had dawned and the fears induced by the darkness of the night had dissolved. A lorry sent for by the Sub-Inspector was standing in front of the police station ready to take him and a posse of policemen in pursuit of the dacoits. Needless to say, the dacoits could not be overtaken and apprehended. The bus in which they had travelled was found abandoned by the roadside. It yielded very important evidentiary material. Its driving wheel and windscreen bore several finger marks, and one of the mudguards displayed a complete and almost perfect impression of a human palm. The Sub-Inspector saw these marks and sent for the official photographer.

In the meantime another police officer had gone to the bank premises and begun conducting the investigation at that end of the crime. There was here no loss of property, but the wounding with a firearm of the night watchman who, though still alive, was not expected to survive, was a grave matter and acquired an even graver aspect, because it had been caused by the gang who had, immediately before, stormed the police station. Perhaps a police gun had been fired at the victim. The officer noticed finger-marks on the filing cabinet, the iron safe, the glass top of the writing-table and the handle of a hand blotter. These were kept intact to await the arrival of the photographer. No other clues were discovered, but the resident of the house opposite, who had switched on his light on being woken up by the sound of gunfire, said he had seen the dacoits and would be able to identify them if he saw them again.

When the news of this daring outrage spread through the State, it caused consternation and threw the entire police force into a state of stern indignation. Such a bold and vicious assault on the guardians of law and order had never been heard of in the whole history of the Punjab administration, which had always boasted of a 'strong' police service able to deal effectively with the most turbulent and the most desperate criminals. Other States had always admired the Punjab police, and their methods had aroused envy. During the days of the British Raj, Punjab policemen were often requisitioned to suppress political disturbances and the nefarious activities of revolutionary gangs, and they had invariably achieved complete success whatever the envious ones might say about the manner in which they employed their extraordinary talents. In Republican India, when Bhupat's gang of robbers and murderers was terrorising the people of Rajasthan, the Government of India had sent a Punjab policeman to deal with the situation, and he had captured or 'liquidated' the entire gang so swiftly and effectively that 'its leader, Bhupat, had been obliged to flee and seek asylum in Pakistan whence he never returned home. Peace had been restored to Rajasthan by a Punjabi.' It was this same Punjabi, Mr. Ashwini Kumar, who now held the post of Deputy Inspector-General of Police and was in charge of the Western Range in which the town of Mukerian is situated. He at once assumed personal control of the investigation and sent out instructions calling upon all police officers to strain every nerve and spare no effort to trace the culprits and bring them to book.

There was almost an unparalleled wealth of data to proceed from. The dacoits had been seen by several persons who had had ample opportunity of observing their features. There were, to begin with, one head

constable and four constables in whose presence Nirbhai Singh was murdered and the store-room plundered. Lal Masih, the inmate of the lock-up, had also seen some of the offenders. Then there was Dr. Bal Krishan, the resident of the house opposite the bank premises. He told the police that he would be able to identify some at least of the culprits. The driver of the bus in which the dacoits had escaped would also be of some assistance in the matter of identification, and finally there was Daffedar Mota Singh, who claimed to have met the dacoits when they were going to the Punjab National Bank after visiting the police station. The dacoits were obviously fearless and experienced robbers, and the Police Fingerprint Bureau at Phillaur must have records of the fingerprints of many of them. The impressions found on the steering-wheel, windscreen and mudguard of the bus and on the various articles in the bank room would surely enable the bureau officials to trace the culprits. Track marks of eight different feet were observed on the soft ground at the back of the police station and also in the courtyard. These were carefully examined and moulds were prepared from them. An experienced tracker would be able unerringly to pick out corresponding tracks whenever he saw them again, and he would be able to demonstrate to the court the accuracy of his observation by making a comparison of the moulds with the feet of the culprits when they were found. Almost all the stolen articles were identifiable, because they bore individual markings which obviated any possibility of error. The firearms had numbers engraved upon them. The watch, the ring and the gun licence also bore the names of their owners. The leather bag, too, would be recognised by Sub-Inspector Shiv Parshad.

There would thus be enough evidence to prove the guilt of the dacoits and hang them if only they could be found and the stolen goods recovered from them. No court would doubt the genuineness of the recoveries or disbelieve the evidence of the fingerprints, even though the identification by the eye-witnesses were treated as not quite reliable. But how were the dacoits to be apprehended and identified? Would the Fingerprint Bureau, where records of all convicts are maintained, be able to trace them? Not at this stage, regretfully, said the experts. In the Phillaur Bureau fingerprints are catalogued according to the 'ten-finger system', which is designed to trace an old offender only when the prints of all his ten fingers are available. This system is, no doubt, economical, necessitating far less staff and storage space, but its scope is limited. It is useful only when it is necessary to trace the identity or the previous history of a person who has already been apprehended and is being interrogated. The 'single-finger system', on the other hand, is designed to trace the identity of a criminal from even a single fingerprint left by him on the scene of the crime. This system, had it been practised at Phillaur, would have immediately revealed the identity of four of the Mukerian dacoits, and the investigation could have been completed in less than a week. It is to be hoped that, when finances permit, the 'single-finger system' prevalent in most of the western countries would also be adopted in India. In the meantime a great deal of empirical hit-or-miss, which is a feature of our present-day crime investigation, is likely to continue. And this is exactly what happened in the case we are concerned with.

There are, however, compensating factors. The phenomenal luck of the police in these matters often supplies a much-needed clue or piece of evidence.

They say they have a hunch about these things. When a serious crime has been committed, rumours slowly begin to take coherent shape; there are traitors in the underworld who are willing to sell important information, and finally for the offender himself there is the temptation of securing a pardon in lieu of an undertaking to become an approver—a witness for the prosecution, instead of standing in the dock and being tried on a capital charge. The investigation of the Mukerian dacoity followed the usual pattern. The usual police method of summoning the bad characters whose names were borne on police records was the obvious preliminary step. At first it yielded no results for the simple reason that a broad-based interrogation of this type can at best be little more than perfunctory, and where hundreds of men are called it is impossible to notice a guilty look, a nervous response or a halting evasive reply. Clues of various types and seemingly unconnected strands of information were picked up, pursued and then abandoned. Indeed, on one occasion two of the dacoits were interrogated and allowed to go away, because nothing substantial emerged from the enquiry. There was a great deal of groping in the dark and much haphazard floundering. The combined activities of the entire Punjab police force seemed to produce nothing profitable, and more than a fortnight passed without a single arrest having been made.

But then suddenly events crowded in with surprising rapidity. Acting on secret information, the police organised a number of raids on the 17th, 18th and 19th of April. The house of Rura, a bad character of Chuaharpur village, was raided early on the morning of April 17. Rura was not at home, and a search made for him in the village produced no result. The next day Mr. Kumar called the Sub-Inspector and told

him that Rura would go to a friend's well in another village. A party of sixteen policemen went and posted themselves on the route to the well. At 6.35 p.m. Rura was observed approaching, quite unconcerned and ignorant of the ambush lying in wait for him. When he came near, the policemen rushed out of their cover and overpowered him. In their excitement and anger they gave him what they, no doubt, felt was a well-deserved thrashing with their sticks. Also the resistance offered by Rura justified the use of force against him. He was carrying a gun and a cloth bag containing sixteen cartridges. An examination of the gun showed that an attempt had been made to file off and erase the number engraved upon it at two places, but the figures 758 were discernible on the front portion of the butt where the barrel fitted into the socket. The gun was thus identified to be the one which belonged to Sub-Inspector Shiv Parshad and had been removed from the Mukerian police station by the dacoits.

To continue this part of the story, Rura was interrogated. After some days his resistance was softened and he agreed to give more information about himself. This led to the recovery of a revolver and a country-made pistol from a place of concealment in Rura's field, and Sub-Inspector Shiv Parshad's gun licence and signet-ring from his house. The number of the revolver at an easily noticeable place had been filed off, but on the underside of the barrel and concealed by a thin metal rod the same number was intact. This was seen on the rod being removed, and in this manner the revolver was unmistakably identified to be the property of Flying Officer Naresh Chand, who had deposited it in the store-room of the Mukerian police station. It will be remembered that this fact was mentioned in the First Information Report, and the

number of the revolver was stated in the list of missing articles. Flying Officer Naresh Chand had in his possession a receipt given him when he deposited his weapon, and this receipt also bore the same number. The signet-ring and gun licence were, of course, immediately identifiable. So from Rura's possession four items of stolen property were recovered. The matter, however, did not rest there. Immediately after his arrest two identification parades were held. Rura was made to stand with a number of other persons, and he was told that he could take up any position he liked. The witnesses were then called one by one and the magistrate who was conducting the parade asked them if they could see and pick out any one or more of the dacoits. Seven out of the eight eye-witnesses correctly pointed at Rura, saying that they had seen him taking part in the Mukerian dacoity.

Another raid at another place the same evening (April 18) led to the arrest of another bad character, Gyan Singh. Concealed under his shirt and tucked into a fold of his loin-cloth was found a pistol. A few days later he made a statement which led to the recovery of a shot-gun and some catridges from a field in which he had previously buried them. At two identification parades held on two successive days after his arrest, he was correctly picked out by seven out of the eight persons called to identify him.

It was also on the night of April 18 that a third party of 140 policemen was sent to a village near Amritsar. At 3 a.m. the party was fired upon. The police fired back, and in the course of the brief skirmish which followed, two men Mohna and Charna, were shot dead. They were suspected to be members of the gang of dacoits. It was not possible to preserve the dead bodies long enough to enable the witnesses to be called for purposes of identification, so

the police took the precaution of removing the skin from their fingers and preserving the pieces in twenty separate bottles of spirit. From these, impressions were later taken and compared with the photographs of the fingerprints on the various articles at the bank. The impressions from the pieces of Mohna's fingers corresponded with the marks found on the steel cabinet.

A fourth raid was made on the house of Jagjit Singh in the city of Amritsar. Jagjit Singh is the nephew of Pratap Singh Kairon, the Chief Minister of Punjab, and it was a bold step to decide on his arrest. At 1.30 a.m. Jagjit Singh was seen coming out of his house. He was apprehended without any difficulty, and from his possession a revolver with all six chambers loaded was recovered. It was proved later by the evidence of the ballistic expert that Head Constable Nirbhai Singh was killed by a shot fired from this revolver. The bullet which caused his death had been recovered from his body and a comparison of the markings found on this bullet with a test bullet fired from Jagjit Singh's revolver left no doubt at all that both had passed through the same barrel and had in the process received identical patterns of markings. It has been scientifically demonstrated that this type of evidence is as accurate and as free from any margin of error as the evidence based on fingerprints. No two revolvers cause identical marks on bullets fired from them, and no two guns produce the same kind of dent on the percussion-cap of the cartridge by the impact of the hammer when the trigger is pulled. In the case of Jagjit Singh also an identification parade was held under the supervision of a magistrate, and all eight witnesses were able to point him out as one of the dacoits. But perhaps the most telling piece of evidence against him was the fact that the clear and

complete impression of a human palm on the bus in which the dacoits had driven away was unmistakably proved to correspond in every detail with an impression taken from Jagjit Singh's right hand.

The crowded and hectic period of less than forty-eight hours during which three of the culprits were apprehended and two others killed was followed by nearly a fortnight of comparative inaction. Then on May 3 a police party went to a village near Amritsar and surrounded the house of a well-known bad character. The police had information that Surinder, who was one of the absconding dacoits, had taken shelter in this house. There certainly was someone in the house, for the door was bolted from inside. The inmates were called upon to come out and surrender. By way of reply shots were fired from the house on the police party. So Mr. Kumar, who was himself leading the raid, directed that a hole be made in the roof and a tear-gas bomb dropped inside. This was easily accomplished, because the roof was made of unbaked clay bricks resting on wooden beams and plastered over with mud. The smoke drove out Surinder, for it was, in fact, he who had taken shelter in the house. But the hunted man had no desire to surrender. He came out firing at the police party and was shot dead. The rifle with which he was armed was one of the weapons stolen from the Mukerian police station.

This left only two men unaccounted for, and it was not long before they, too, were rounded up. Their names had been revealed to the police by Gyan Singh, and a hunt for them was being conducted. In the beginning of August, Harbhajan Singh, a resident of Hoshiarpur district, not far from Mukerian, went to the police and informed them that the wanted men, Faqira and Mula, were living at a farm in Punnapur

village in the State of Uttar Pradesh. Harbhajan Singh also had a farm at Punnapur, and he had seen Mula and Faqira when he had gone there on one of his frequent visits. A police party was immediately organised and taken post-haste to Punnapur. Mula and Faqira had gone somewhere and the police had to wait for two days before the opportunity to take action presented itself. On August 7 it was learnt that both of them were at the farm and Mula would be travelling by bus to the town of Pilibhit. A police party placed itself on the bus route and another party left for Harbhajan Singh's house where Faqira had been invited by him for a drink.

Mula was found travelling on the bus and was arrested. From a cloth bag which he was carrying two pounds of potatoes and a revolver were recovered. The revolver was proved to be the one which Sub-Inspector Shiv Parshad had deposited in the police station at Mukerian before going out to search for the boy who had been reported missing. As for Faqira, it is best to describe what happened in Harbhajan Singh's own words:

Mula left for Pilibhit on some private business. Faqira remained with me and both of us took liquor. Bishan Singh also had a drink with us. Some time after the departure of Mula I sent a message to the police through Bishan Singh that Faqira was with me. When Bishan Singh did not come back, Faqira became suspicious. We were sitting on the same cot and he was armed with a loaded single-barrelled gun. He aimed his gun at me. I succeeded in taking hold of the barrel and turning its muzzle towards the sky, with the result that the bullet went up and I was not hit. He again loaded the gun. I snatched the weapon from him. We grappled. I

was afraid he would kill me. So in self-defence I fired at him and he died on the spot.

So, when the police party arrived a few minutes later, they found a corpse confronting them. Harbajan Singh, who was standing nearby and was the sole witness of Faqira's end, related the story set out above and there was no evidence to rebut it. He claimed the big reward which had been advertised and duly received it.

Let us for a moment go back to Gyam Singh, the first person to be arrested and interrogated by the police. It has already been stated that he was identified by no less than seven persons as one of those who had taken part in the dacoity. He also gave information which led to the recovery of a gun and some ammunition. The story of how he became a witness for the prosecution in the case has, however, not yet been related. During the course of his interrogation he had given a full statement recounting the manner in which the dacoity was planned and carried out. As the investigation proceeded and the evidence against him piled up, he must have felt that the only means of escaping the consequences of his misdeeds was to ask for the usual pardon accorded to an approver. So on May 12 he sent the following petition from gaol.

It is submitted that having been arrested in the Mukerian dacoity case I am being detained in gaol. In case I am made an approver, I am prepared to disclose truly all the facts relating to myself as well as my accomplices. My prayer may be granted. My mind has since long been oppressed by my sins.

Gyan Singh was conducted to the court of the District Magistrate who had authority under law to grant pardon, and the matter laid before him. The District Magistrate, after reading Gyan Singh's application and the police report, passed an order according his sanction to Gyan Singh being made an approver. He then had the prisoner's handcuffs removed and questioned him. Gyan Singh quite bluntly said that he was not prepared to accept the offer of pardon or give evidence at the trial. The handcuffs were replaced on the prisoner's hands and he was led back to his cell.

A fortnight later Gyan Singh sent another petition.

It is submitted that once before I made an application to be made an approver. I was determined to disclose all the true facts of the case. After the application was sent Faqira, who is absconding from the police, sent me a message that if I turned an approver, he would slaughter the members of my family. So, when I was called up the next day, I was too frightened to accept the offer of pardon tendered to me. On coming back to gaol I realised that I had committed a great blunder in taking part in the Mukerian dacoity and this was a great burden on my mind. I feel dejected all the time. Now I have decided that whatever happens I should appear before you and disclose all the facts. It is, therefore, submitted that I may be called and my statement recorded.

So, once again, the prisoner was produced before the District Magistrate. This time there were no second thoughts and no resiling. Gyan Singh made a detailed statement of the facts within his knowledge and

became qualified to receive pardon and appear as a witness for the prosecution at the trial.

When the commitment proceedings began before the magistrate, the police had a great deal to be proud of. They could congratulate themselves that they had tracked down all the eight dacoits and recovered the arms stolen from the police station. It was unfortunate that four of them had been killed and were no longer alive to face capital charges. But the police were in no way to blame for this, and in any event these men had received what they fully deserved. There was enough material in possession of the police to hang the four surviving dacoits, but by way of abundant precaution Gyan Singh had been made an approver. Thus there would be no loophole left for the remaining three. Adding up the evidence against each of them, any prudent person would arrive at the only possible result—a certain verdict of guilty. What the law required was the satisfaction of a prudent man and the prudent man would be presented with the following facts:

(i) RURA. On his arrest he was found in possession of a gun stolen from the Mukerian police station; from his house Sub-Inspector Shiv Parshad's ring and gun licence were recovered. His fingerprints were found on the iron safe in the bank and he was identified by seven persons. He had declined to take part in the identification parade and his refusal was an indication of guilt. The evidence of Gyan Singh, approver, would implicate him fully.

(ii) MULA. The service revolver of Sub-Inspector Shiv Parshad was found in his possession. On his information a rifle stolen from the police station was recovered from a place of concealment, his fingerprints were found on the filing cabinet in the bank

and he was identified by six persons. He was also fully implicated by the approver.

(iii) JAGJIT SINGH. The revolver with which Head Constable Nirbhai Singh was shot dead was found in his possession at the time of his arrest. The impression of his right palm was found on the mud-guard of the bus on which the dacoits had driven off, and he was identified by eight eye-witnesses. In addition, there was the testimony of the approver against him.

Besides this there was the evidence of association between the prisoners and the men who had been killed during the investigation of the case. It was proved that these men had been in gaol together at various times during the years preceding the dacoity. There was also evidence of their movements before and after the dacoity. Altogether it was as complete and convincing a case as anyone hoped to handle or try.

The three prisoners were committed to stand their trial before an experienced Sessions Judge. The hearing began on March 25, 1957, and ended on July 11, 1957. The prosecution examined 160 witnesses and the defence twenty-nine. The judge pronounced judgment on July 16, holding all three prisoners guilty of dacoity and murder. He sentenced each of them to death and referred the case to the High Court for confirmation as required by law. At the same time the prisoners filed appeals against the order of conviction. The appeals and the reference were heard by a Division Bench consisting of Mr. Justice Gurnam Singh and myself.

Counsel for the defence attacked the case for the prosecution from all sides and challenged every piece of evidence produced at the trial. He contented that the whole story was a piece of pure fabrication. He could not, of course, deny the dacoity, the murders

and the removal of arms and ammunition from the police station, but he maintained that the recovery of the stolen articles was faked. His argument was that the crime was committed not by Jagjit Singh, Mula and Rura, the three appellants before us, but by the four men who had been killed in their encounters with the police (Mohna, Charna, Surinder and Faqira) and four other persons including perhaps the approver Gyan Singh. The arms and other articles recovered from the culprits had been 'planted' on the prisoners. With regard to the evidence of identification, the learned counsel argued that as the crime was committed at night and the offenders must have taken the precaution of masking their faces, nobody could have observed their features. They must have been shown to the witnesses before the various identification parades and the witnesses had agreed to go through the farce of identifying them in the presence of a magistrate, because they were assured by the police that these genuinely were the dacoits. The evidence of fingerprints was similarly characterised as false and fabricated. There was no guarantee that the expert had before him photographs of prints found at the spot and not impressions taken from the prisoners' hands after their arrest.

To support his submissions, learned counsel relied upon a number of circumstances. He pointed out the significance of certain dates. He argued that though Mula had a pock-marked face (he had contracted smallpox at the age of 12) and Faqira was lame in one leg, these facts had not been stated by Sant Ram, sentry when he made the First Information Report. Jagjit Singh alleged that his right arm was quite unserviceable, as he had some years ago so badly dislocated his shoulder that he was unable to lift his arm or wield a weapon, nor would he be able to climb a

wall as this would necessitate pulling his weight up with both hands. The main argument in appeal, however, was that the case was the first of its kind both as regards the enormity of the crime committed and also as regards the class of persons victimised. The crime had aroused the indignation of the entire police force in the State and exercised their minds to an unprecedented degree. All police officials in the State, therefore, were anxious to get to the bottom of the affair and punish the culprits. In their zeal and anxiety (so the argument proceeded) the officials were ready to punish anyone and make an example of him. They, therefore, rounded up the most likely persons and built up a case against them.

From the very start my colleague, Mr. Justice Gurnam Singh, began to indicate his doubts and suspicions. He was not prepared to accept the evidence of recoveries and identification as genuine and reliable. He wanted to know what had led to the arrest of Gyan Singh. The evidence led by the prosecution was silent on this point. The police officials vaguely referred to an informer whose identity could not be divulged because this would be tantamount to denouncing him. The revelation of his name might imperil his person, and would, in any event, be an abuse of his confidence. My learned brother looked upon Gyan Singh's evidence as highly suspect, as every approver's evidence undoubtedly is. The State counsel argued that the pock-marks on Mula's face were not very prominent and might well have escaped notice. The extent of Faqira's lameness was not known; it might have been no more than a slight roll in his walk. Jagjit Singh's story of an unserviceable arm was demonstrated to be false when we called Col. Bhatia, Chief Medical Officer, and asked him to examine Jagjit Singh. He put Jagjit Singh through a thorough

test and took X-ray photographs of his arm and shoulder. These proved that Jagjit Singh was able to raise his arm as well as a normal person. The doctor said: "There is no deterioration in the muscular development of his shoulder. There is an old abduction fracture of the head of the right humerus, but this does not impede Jagjit Singh's arm in any way." Col. Bhavia showed us a photograph of Jagjit Singh with his arm raised.

There were one or two matters which seemed to cast a doubt on the good faith of the investigating agency, but a closer examination of them dissolved my suspicions. The defence taken up by Rura was one such matter. Rura, when asked to make a statement at the trial, had related the following story of his arrest:

I was arrested on the morning of April 17 and not on April 18. I was friendly with Head Constable Sardul Singh and Parkash Chand, goldsmith, both of whom like myself originally belonged to Pakistan. Parkash Chand was once confined in the same gaol as myself and Sardul Singh was some years ago tried on a charge of dacoity. I met him when he was an undertrial prisoner confined in the same gaol as myself. These two men came to my village at 8 or 9 p.m. on April 14. They had with them two bicycles on each of which a bedding-roll was tied. I entertained them with a bottle of country liquor and Parkash Chand told me that he and his brother were involved in a criminal case, because they had abducted a young woman from Amritsar. He said he feared that the woman would give evidence against him and he would be sentenced to imprisonment for seven years. He asked me to help him and I replied that I would give whatever assistance I could. He said his plan

was to bring the woman to the village. I told him that it would be necessary to have some arms and ammunition handy, in case the need to use them arose. Parkash Chand replied that he had already made ample provision for this and the bedding-rolls contained enough for all possible contingencies.

At my suggestion the bedding-rolls were concealed under a heap of reeds at my well, outside the village, and my friends left in the morning promising to come back on the 16th with two or three more men. They did not come on the 16th. On the 17th, early in the morning, two lorries full of policemen arrived at my house. Among them were Parkash Chand in handcuffs and Head Constable Sardul Singh in uniform. Sardul Singh asked me to proceed to my well. Parkash Chand walked ahead and the whole party arrived at the well. The bedding-rolls were taken out and opened. Two rifles, two guns, three revolvers and a large quantity of cartridges were recovered from them. Sardul Singh asked a police constable to arrest me on the charge of possessing illicit arms. I began to protest and say that I had nothing to do with these articles, but to stop me from making further disclosures, the police beat me till I fell down and became unconscious. I was then carried to my house. From there I was taken in the police lorry to Kapurthala, where I was shown to the witnesses who some days later identified me at a fake parade. My fingerprints were also taken on the 17th. On the 18th I was removed to Amritsar and confined in the gaol. The same evening I was examined by a doctor who drew up a statement of my injuries. I complained of all these matters to the magistrate before whom I was produced on the 19th.

This extraordinary story was sought to be substantiated by the following facts:

(i) **The Tribune** of April 19 carried a news item sent by a correspondent from Kapurthala on April 18, that 'two persons in connection with the Mukerian case were arrested yesterday (April 17) from a village in Kapurthala district, and arms and ammunition were recovered from them'.

(ii) **The Daily Milap**, an Urdu newspaper, carried a similar news item. This paper even mentioned the names of the arrested persons and said that Saudagar Singh and Bur Singh had been taken into custody in Chuharpur (Rura's village).

(iii) Rura was admittedly beaten by the police at the time of his arrest and his injuries were examined by a doctor at Amritsar on the evening of April 18.

(iv) One Parkash Chand and his brother were being tried on the charge of abducting a young woman in the court of a magistrate at Amritsar. They had to appear in court on April 18. On April 17 Parkash Chand sent a telegram pleading his inability to attend court owing to sudden illness. He also sent a medical certificate issued by a doctor of Kapurthala.

(v) The police admitted that Rura's house was raided on the 17th, though it was alleged that the raid had yielded no results.

Sardul Singh was cited as a witness by Rura. When he was called, Rura's counsel advised him in open court not to examine him, but Rura insisted on putting Sardul Singh in the witness-box. Sardul Singh had been promoted from his original rank of Head Constable, and was now Assistant Sub-Inspector of Police. He denied that he had been involved in a dacoity case or that he had been detained in gaol as an under-trial prisoner in 1948 or 1949. He denied that he had ever met Rura in gaol or that he had

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gone with Parkash Chand to Rura's village on April 14. He admitted that he was a member of the raiding party on the 17th. When pressed further, however, he admitted that he was tried for dacoity in the year 1950. The last question which the defence counsel put to him was:

'I put it to you that you were promoted to the post of Assistant Sub-Inspector of Police because you successfully planted firearms on Rura?'

The witness answered: 'This is incorrect.'

Parkash Chand also denied that he had ever known Rura. He admitted that he was once confined in the District Gaol, Jullundur, as an under-trial prisoner in 1953, but he repelled the suggestion that Rura was also there at the time and had thus become acquainted with him. He denied going to Rura's house with Head Constable Sardul Singh on April 14 with two bedding-rolls containing arms and ammunition.

It was not difficult to build up an argument in Rura's defence on this material. If Sardul Singh was the sort of policeman who had once been tried on the charge of dacoity, anything could be expected of him, and Parkash Chand's denials were the result of pressure to which he must have been subjected. On the other hand, the new item in **The Tribune** was obviously incorrect, as even according to the defence only one person (Rura) and not two were arrested on the 17th, and **The Daily Milap** was completely wrong as regards the identity of the arrested persons. Moreover, it was difficult to understand why so many arms and ammunition were needed to silence a young woman and prevent her from giving evidence against Parkash Chand, and Rura's story lacked conviction.

My learned brother Gurnam Singh, however, entertained grave doubts about the conduct of the police in relation to Rura, and he was inclined to accept

Rura's story. He thought there was much to support Rura's version of his arrest. Sardul Singh's prevarication about his criminal past, his somewhat surprising promotion to the post of Assistant Sub-Inspector of Police, Parkash Chand's transparent excuse for absenting himself from court on April 18, and the significant though somewhat inaccurate reports in the two newspapers all pointed to something about which the prosecution had not been ingenuous. I, on the other hand, felt that the recovery of firearms was a circumstance which could not be explained away by Rura's story of Sardul Singh's evasions of Parkash Chand's antics. If the arms had, in fact, been recovered—and this fact was incontrovertible—why should there be need for falsely implicating an innocent individual when the real culprit must have been readily available?

The hearing of the appeal before us lasted ten days, and when arguments were over I discussed the matter with my colleague in my chamber. We could not agree, and Mr. Justice Gurnam Singh said that there were so many unsatisfactory features in the case that he felt himself unable to uphold the conviction. He was thus of the opinion that the appeal must be allowed. I tried to meet some of his objections, and with regard to others I expressed the view that they were not fatal to the case for the prosecution. I told him that though there were cases in which an allegation of fabricating false evidence had been substantiated, in this case the police could not gain anything by victimising innocent persons, nor would such a course add to their dignity. Indeed, the failure of the police to bring the real culprits to book would only make matters worse, because the real culprits by remaining unpunished would become bolder and more defiant, and thus not only impair the efficiency of the police

force but also undermine their sense of security, dignity and pride, I could not reject the evidence of recoveries and identification, and there was nothing suspect about the evidence relating to fingerprints. I could not, however, convince Mr. Justice Gurnam Singh and we wrote differing judgments, he allowing the appeal and I rejecting it.

The matter was placed before the Chief Justice for nominating a third judge who would hear the entire appeal *de novo* and give the final judgment in the case. He choose to hear the appeal himself. He agreed with me in holding that the charges had been fully substantiated and that the appeal merited dismissal.

The convicts moved the Supreme Court for special leave to appeal, and the argument that one High Court Judge had given a verdict in favour of the prisoners was presented before the Supreme Court and pressed with much vehemence. Leave, however, was refused and the conviction was upheld.

A few days later all three condemned prisoners were executed.

T E N

THE CRIME OF NATHURAM GODSE

TOWARDS the end of 1947 I was appointed by the Government of India to deal with a matter which seemed simple enough to start with, but which, upon closer examination, revealed a complex and difficult

pattern. This assignment provided me with the only opportunity I have ever had of meeting Mahatma Gandhi, and conversing with him for a considerable length of time.

The formation of Pakistan and the consequent partition of India led to a large-scale exchange of population. Millions of Hindus and Sikhs were compelled to leave their homes in what had, overnight, become a foreign country for them. They rushed across the border in quite unmanageable numbers, using all available means of transport, and poured into the towns and villages of India in big unruly masses. They wanted houses to live in. The Muslims of India for their part were equally panic-stricken and were leaving for Pakistan. The houses vacated by them were quickly invaded and expropriated by the homeless immigrants. So great was the rush of refugees and so fierce the wrath which impelled them that it was wellnigh impossible to enforce any kind of scheme or order into the chaos which prevailed. Rich and commodious evacuee were frequently occupied by ruffianly hooligans who, sometimes, were not even refugees and had taken advantage of the confusion to improve their status by grabbing whatever they could lay their hands on, while law-abiding individuals belonging to a much higher stratum of society remained homeless.

There were not wanting instances of angry refugees driving Muslims out of their houses, before they had made up their minds to emigrate, for many of them hoped to continue their lives in their old-established homes after the disturbances, which they hoped would be short-lived, had subsided. This was something the Government of India could not countenance. Mr. Nehru had declared in unequivocal terms that India was going to be a secular State, and any Muslims who

chose to remain in the country would be given full protection and citizenship rights.

In Delhi, where there were large numbers of Muslim residents, the situation was at its most difficult. The capital was subjected to a much greater influx of refugees than any other town. It seemed at one stage that everyone from West Punjab—doctor, engineer, lawyer, money-lender, industrialist, business man, shop-keeper, hawker, artisan and manual labourer—had been impelled by an irresistible urge to come and live in Delhi. The old cry of **Dillo Chalo** (let us go to Delhi), which had been no more than a slogan to rally the forces of patriotism, had, at last, been answered. But there just weren't enough houses to go round.

The Government of India appointed a senior member of the Indian Civil Service the Custodian of Evacuee Property. It was his duty to protect Muslim property and 'administer' it according to law. But this was easier said than done. A problem of such magnitude and complexity needed a large measure of initiative, resourcefulness, patience, tact and administrative ability. Above all it demanded a knowledge and understanding of the Punjabis. The Custodian selected by the Government of India was a South Indian, and very soon there were loud complaints of incompetence, favouritism, nepotism and corruption. The matter was raised in Parliament, and an immediate sifting enquiry by a High Court Judge was ordered. The judge had to be a Punjabi, conversant with the people of the Punjab and their problems. The choice fell upon me.

In Delhi I called on the Secretary to the Ministry of Relief and Rehabilitation, and asked for the terms of reference of the enquiry entrusted to me. I was told that the terms were very wide—as wide as I wished. I was to report on the work of the Custo-

dian and 'clean up the mess'. This was a tall order, and I was doubtful about the legality or at any rate the wisdom of embarking on such a vague and limitless venture without something in the form of an order or Government notification. I went to see the Minister. He assured me that the Secretary had acted under his orders, and that there was no need to limit the scope of my assignment. I would have an entirely free hand and the Government had complete confidence in me, etc., etc.

Just as I was taking leave of him, he dropped a bombshell: 'The Custodian is proceeding on leave, and it may be some time before his successor is appointed. So you will be in complete charge of the department.'

This was staggering. I had come to hold an enquiry and now I was being asked to run the entire show. But it was hardly the time to demur or argue about the matter. It would have been churlish not to shoulder the responsibility, even though it was being thrust upon me so unceremoniously.

The next few weeks were like a crazy nightmare. I was so irretrievably overpowered by the immensity of my task and the multifarious problems surrounding me on all sides, that I had scarcely any time to look into the alleged malpractices of the erring Custodian. Thousands of Muslim families, seeing the temper of the refugees and anticipating trouble, left their houses to go to the camps set up as temporary shelters, at safe distances from the town. In most cases a single (usually the oldest) member of the family stayed on as evidence of continued possession or of *animus revertendi*. It was difficult to know which of them would ultimately decide to return home, and which would prefer to go to Pakistan like so many others who had already joined the exodus. When I visited

the Muslim quarters to see things at first hand, and check the inventory of houses prepared by subordinate officials, I was besieged by homeless refugees clamouring to be let into the empty houses abandoned by Muslim occupants. Was it fair, they asked me, to deny them a shelter after they had been hounded out of their homes. How long would they remain lying in the streets when houses were available? Couldn't I see that they were rapidly falling victim to exposure and the cold winter nights of North India? Didn't I know full well that the Muslims would not come back? For years they had been shouting and agitating for Pakistan, and now their demands had been conceded. If they didn't want to go to the homeland of their choice, they should be sent there by force. Had I no feelings, no sympathy, no understanding, no sense of justice where my own people were concerned? They expected better treatment from a Punjabi. And much more in the same strain.

In my office I received hundreds of visitors each day. I knew many of them personally. Among them were my own relatives, friends and acquaintances. There were others whose names were familiar. Physicians, surgeons, lawyers, engineers, an X-Ray specialist, a well-known caterer of Lahore, a fashionable tailor, dozens of retired Government officials came seeking my assistance. All they wanted was a house—a portion of a house, a room, an empty garage or a shed to live in and to work in. It was not easy to maintain a cool and dispassionate attitude when faced by these demands, and to remain just and impartial. I began to entertain doubts about what was just in the circumstances. Should I let the homeless people occupy the empty houses? Should I allow the Muslims to be chased out of India as Hindus and Sikhs had been chased out of Pakistan? I didn't know

what answer to make to the people who importuned me daily, asking for what, they said, was theirs by right.

In my perplexity, I sought Mahatma Gandhi's advice. He was in those days living in Mr. Birla's house on Albuquerque Road, and held prayer meetings every evening. I telephoned his secretary, and though he was very busy and had a crowded programme of visits, interviews and discussions with political leaders, he agreed to receive me at 11 o'clock the following morning.

But then, suddenly, I was overcome by a strange apprehension, which only they can appreciate who knew the position held by Mahatma Gandhi in India and the influence he exercised in every sphere of activity, political, social and economic. It was reported that there was, about him, an aura of saintliness and a magical power which hypnotised his interlocutors and reduced them to tame, supine creatures ready to efface themselves, to agree to whatever he said and carry out his directions. Lord Irwin was supposed to have been affected in this manner when he gave his assent to the Gandhi-Irwin pact in 1931. His fasts had converted his strongest opponents, and it was rumoured that die-hard British politicians and administrators were unwilling to meet him, lest under his mysterious spell they compromised their principles. Only a few days previously the world had witnessed a demonstration of his powers. A sum of 550 million rupees was due to Pakistan, but the Government of India was reluctant to pay it as it was feared that the money would be used by the Government of Pakistan to purchase arms for use against India in Kashmir where a state of hostilities prevailed. Sardar Patel, the Home Minister, made a statement to this effect on January 12, 1948. It was well known

that Mahatma Gandhi was strongly opposed to any decision which might savour of breach of faith on our part. On the day Sardar Patel made his statement, the All India Radio announced that Mahatma Gandhi had undertaken a fast with the object of improving Hindu-Muslim relations in the capital. Three days later, the Government of India announced that immediate effect would be given to the financial pact arrived at between India and Pakistan, and that orders had been issued to the Reserve Bank of India to pay the entire amount due to Pakistan. On the same day Mahatma Gandhi broke his fast. The nationalist newspapers highlighted these two items of news with bold headlines announcing that the Government of India had at last surrendered 'to Pakistan due to pressure from Gandhiji.' The leaders of Pakistan were 'overcome with excessive joy', and though nothing was openly said against Mahatma Gandhi there was an under-current of sorrow and resentment at what had happened.

As I turned over these events in my mind, I wondered if I should be able to place my problem before the Mahatma and explain its various aspects. Sixteen months later these events were again narrated before me in the quiet but solemn atmosphere of our courtroom in Simla, and we were told of the impact they had made on certain individuals and of the horrible crime committed by them. But, sitting in my small office room that day towards the end of January 1948, my only thoughts were of the embarrassing situation in which I had placed myself. However, the appointment had been made and there was no question of going back upon it. Also, there was within me a genuine desire, a pardonable curiosity to meet the great man, who had done more to achieve political

freedom for India than the rest of the country put together.

So, the next morning I drove to Birla House, well before the appointed time. While waiting in the ante-room, I asked the official present if I should speak to the Mahatma in English or in Hindi. 'Hindi, of course,' was the immediate and categoric reply. I felt more at home in English, but I accepted the inevitable, and began formulating sentences which would adequately express my meaning. After a moment or two I abandoned the attempt, telling myself that I should manage somehow. I had heard Gandhiji did not like being addressed as 'Mahatma'. I asked the official what was the correct form of address. 'Call him Bapuji,' he said. There was a touch of scorn in his tone at such crass ignorance on the part of a High Court Judge.

I removed my shoes and tried to compose myself. Exactly at 11 I was called. I hurried into the room where Gandhiji was sitting on the carpeted floor. He wore only a handspun loin-cloth, and from the waist upwards his body was bare. He was thin, but by no means emaciated. Indeed, his skin had a fresh, healthy lustre, and his well-massaged muscles rested firmly on his limbs, giving his body an appearance of youth and quiet vigour. His face was almost completely free from wrinkles, except when he laughed. A standard electric lamp stood behind him, and its light came down in a broad cone lighting up his bald head and the shapely curves of his small shoulders. As I entered, he put down the paper on which he had been writing, and greeted me in the usual manner with folded hands.

I sat down near him, and began to tell him of my assignment and the difficulties I had encountered. It was a long story and Bapu listened without interrupt-

ing me. And while I was speaking, an independent mental process started within me. I was becoming aware that there was no mysterious power or hypnotic force to which I was being subjected. I had not entered a strange magnetic field. No spiritual medium charged with a compelling tension surrounded me. Bapu was listening to me just as any other man might. The realisation of this fact lent courage and plausibility to my argument, though, by now, I knew that I was advocating a false plea based on false premises and an emotional urge. I concluded by saying:

'The Muslims in the Old Fort camp have no wish to stay in this country. They told me, when I visited them, that they would like to go to Pakistan as soon as possible. Our own people are without houses or shelter. It breaks my heart to see them suffering like this, exposed to the elements. Tell me, Bapuji, what should I do?'

My carefully delivered appeal sounded hollow in my own ears.

'When I go there,' he replied, 'they do not say that they want to go to Pakistan. They say to me that if we cannot keep them in their own homes, we should send them to Afghanistan, to Iran, to Arabia, anywhere except to Pakistan. They are also *our* people. You should bring them back and protect them.'

He had spoken in a calm matter-of-fact voice. What I heard was not a command, but a simple statement of truth, uttered in a tone which had in it more of humility than of authority. But what surprised me most was that he did not seem to be making a final pronouncement. He had said: 'You should bring them back and protect them', but he kept the discussion open. I mentioned other facts, other difficulties. He pointed out the flaws in my argument. He did not digress into a highfalutin moral discourse, but kept to

the practical problem I had placed before him.

And as he went on talking, understanding came to me that this man had only one sentiment, one passion, one source of strength within him, and that was a deep and pervading feeling of love. He loved Hindus and Muslims, Sikhs and Christians alike. He loved the British who had ruled over us for 150 years, he loved the Pakistanis who had hounded out millions of Hindus from their ancestral homes. He never once uttered the word 'love', but when he looked at me there was a softness in his eyes—and the trace of a smile on his mouth. I felt ashamed.

When I left him after having spent thirty minutes in his company, I knew what I had to do. Bapu was completely, utterly right, just as he had been right in insisting that we fulfil our promise to pay Pakistan 550 million rupees, even though the money would almost certainly be spent to procure arms for use against India.

Four days after this interview I was in Simla. It was a cold and foggy evening with a touch of frost in the air. My wife and I were walking back from the club. We noticed a strange hush in the usually crowded and noisy street which is the main shopping centre of Simla. People were standing in twos or threes, and speaking in subdued voices. A phrase caught my ear: '...kill our leaders'. As we went by, another said: 'absolutely mad', and then 'barbarous'. A sort of premonition made me stop and ask what had happened.

'Mahatma Gandhi has been murdered. Somebody shot him dead'.

I could not believe that such an insane thing could come to pass. Our informer knew nothing beyond what he had told us, and we hurried home to switch on the wireless for more details of the horrible tragedy.

There was no doubt at all about the truth of what we had heard. Mahatma Gandhi had been shot dead while walking to his prayer meeting, that day at 5 p.m., by Nathuram Godse, a Brahmin from Poona. The assassin had fired three shots at point-blank range. Mahatma Gandhi was wounded in the chest and abdomen, and fell down on the spot saying: 'Hai Ram'. The murderer was immediately apprehended and saved from a lynching by the crowd. The pistol from which he had fired the shots was recovered from his possession. Gandhiji was carried to his room in a state of unconsciousness, and he succumbed to his injuries within a few moments.

The whole country was in turmoil. In millions of homes no food was cooked or eaten that night, and a heavy cloud of gloom darkened the thoughts and feelings of the people. While the whole nation mourned Gandhiji's untimely death, the police took up the investigation of by far the most dastardly crime they had ever had occasion to handle. As the enquiries proceeded, it transpired that Nathuram Godse was not the only person concerned in the murder. His act of shooting Gandhiji was the culmination of a widespread and carefully laid conspiracy in which several persons were involved. It took the police nearly five months to complete the investigation and declare the case ripe for trial.

The trial commenced on June 22, 1948, before Mr. Atma Charan, a senior member of the judicial branch of the Indian Civil Service, who was specially appointed for the purpose and invested with powers to give him the requisite jurisdiction. This was necessary because the judge would have to deal with offences

committed beyond his normal territorial jurisdiction.* The trial was held inside the Red Fort, Delhi, but the court was open to the public and the Press, and the proceedings were extensively reported in all newspapers. The accused persons had full liberty to have the assistance of counsel of their own choice.

The following eight persons were charged with murder, conspiracy to commit murder and offences punishable under the Arms Act and the Explosive Substances Act :

1. Nathuram Godse, 37, Editor, **Hindu Rashtra**, Poona.
2. His brother, Gopal Godse, 27, Storekeeper, Army Depot, Poona.
3. Narayan Apte, 34, Managing Director, **Hindu Rashtra**, Prakasham, Ltd., Poona.
4. Vishnu Karkare, 37, Restaurant Proprietor, Ahmednagar.
5. Madanlal Pahwa, 20, Refugee Camp, Ahmednagar.
6. Shankar Kistayya, 27, Domestic Servant, Poona.
7. Dattatraya Parchure, 49, Medical Practitioner, Gwalior.
8. Vinayak Savarkar, 65, Barrister-at-Law, Landlord and Property Owner, Bombay.

Three others, viz. Gangadhar Dandwadi, Gangadhar Jadhav and Suryadeo Sharma, were said to be absconding from justice, and the case against them was heard **in absentia**. The prosecution case was opened by C. K. Daphtary, Advocate-General of Bombay (now Attorney-General of India), and on June 24 the examination of witnesses began. In all

* Law and order is a State subject, and judges of one State cannot, unless specially empowered, deal with offences committed in another State.

149 witnesses were called and a large number of documents, letters, newspaper articles and other exhibits were produced in court. The most important piece of evidence was the statement of Digambar Badge (pronounced Bahdgay), the approver in the case. He was alleged to be one of the conspirators and an active participant in the murder plan. Upon his arrest on January 31, the day after Gandhi's murder, he was subjected to the usual police interrogation. It was not long before he made a statement admitting his own guilt and incriminating his accomplices. After a time he expressed his willingness to appear before a magistrate and repeat his statement. He was tendered a conditional pardon and thus he became King's evidence.

The examination of the witnesses and the recording of their evidence was concluded on November 6. The prisoners made long statements when asked to explain the evidence produced by the prosecution, but they chose not to call any witnesses, though a number of documents were placed before the court by way of defence. Arguments of counsel lasted a whole month, and the court pronounced judgment on February 10, 1949. Out of the men charged, Savarkar was acquitted, two, viz. Nathuram Godse and his friend Apte, were sentenced to death and the remaining five were awarded sentences of imprisonment for life. The trial judge, at the time of announcing his order, informed the convicted persons that if they wished to appeal from his order, they should do so within fifteen days. Four days later appeals were filed in the Punjab High Court on behalf of all the seven convicted persons. Godse did not challenge his conviction upon the charge of murder, nor did he question the propriety of the death sentence. His appeal was confined to the finding that there was a conspiracy. He assumed com-

plete and sole responsibility for the death of Mahatma Gandhi, and vehemently denied that anyone else had anything to do with it.

An appeal in a murder case is, according to High Court Rules and Orders, heard by a Division Bench consisting of two judges, but owing to the unique position which the deceased had occupied, the complexity and volume of the evidence which would have to be considered and appraised and the unprecedented interest aroused by the case, the Chief Justice decided to constitute a bench of three judges to hear the appeal by Godse and his accomplices. The judges were Mr. Justice Bhandari, Mr. Justice Achhruram and myself. We decided that as a special measure we should resume the old practice of wearing wigs, and that on our entry into the court-room we should, as in the olden days, be preceded by our liveried ushers carrying silver-mounted staffs.

The Punjab High Court was, at that time, located at Simla, where it had been hurriedly set up during the autumn of 1947, because at no other place was suitable accommodation available. The Government of India had placed at our disposal Peterhoff, a large manorial building which was formerly the summer residence of the Viceroy. It was a picturesque house standing in pleasant surroundings and commanding a view of the distant hills with their snow-covered peaks. But it was scarcely suitable for a high court. The vice-regal bedrooms, stripped of their opulent furnishings and silver-plated fittings, gave an appearance of mock austerity, but even the largest of them was not commodious enough for a court-room in which, besides the judge and his reader, half a dozen lawyers and their clerks spent several hours a day; and often the parties to the case under consideration also came to see how their lawyers were handling their misfor-

tunes and hopes and how the judge was reacting to the pleas put forward on their behalf. There must be a table for the judge, another for his reader and stenographer, a separate table for the lawyers on which they can place their briefs and the law books they cite. And when a few book-shelves to hold law reports and other books of reference were placed along the walls, there was no room left for the public. We had a constant feeling of being cramped, and there was nothing that we could do to improve matters. Chandigarh and the massive High Court building into which we moved in the beginning of 1955 was still no more than an idea. Fortunately the non-litigant public of Simla was incurious about High Court proceedings, and we seldom had any visitors. But the hearing of the appeal in the Gandhi murder case was expected to arouse widespread interest and bring large numbers of lawyers, pressmen and spectators to court each day, and there was not a single court-room which could accommodate even the persons actually engaged in dealing with the appeal.

The ballroom on the ground floor was being used as a passage giving access to the court-rooms on the first floor. Constructed for vice-regal entertainment during the summer months when the seat of the Government of India used to move from Calcutta to Simla, the large hall was cold and draughty. However, with a few minor alterations and the addition of a dais at one end, it became an admirable court-room, and the generous teak wood staircase which came down to the specially constructed dais displayed a dignity worthy of the robed and bewigged judges who day after day for a period of six weeks marched down it, preceded by ushers resplendent in their scarlet and gold liveries and carrying tall silver-mounted staffs—symbols of the triple embodiment of law." Such splendour and glory

had not been witnessed in the refugee High Court since it had been forced to abandon its old seat in Lahore. The staffs had been put away in a store-room because the narrow corridors between the bedrooms allowed no play for processional ritual, and even the wigs had ceased to be worn because many of the advocates had left them behind in Lahore in their stampede to safety; and at Simla they had made a formal request that the dress regulation be relaxed in this respect. Their re-appearance on the opening day of the appeal was, therefore, all the more impressive.

The hearing began on May 2, 1949. It was a bright day with the gold of the sun lying in a thin layer on the lawns of Peterhoff. There was a cold breath in the air, and the ball-room was warmed by a dozen or so electric fires. Policemen stood guard at the entrance, and admission to the court-room was regulated by passes issued by the Registrar. This was done partly for reasons of security, but chiefly to limit the number of persons who could be accommodated without taxing the patience of our staff or disturbing the proceedings. When we took our seats on the dais, I saw that the room was full to capacity. All the black-coated and gowned lawyers who were not engaged in arguing their cases before other judges had spread themselves over the privileged front rows in a large inky splash. Behind them sat the members of the gentry of Simla, who had succeeded in exercising a sufficient measure of their influence to secure passes. There were separate seats for pressmen and reporters, and to the right of the dais a source or so of chairs had been reserved for the V.I.P.'s. These comprised the wives and daughters of hon'ble judges and high Government officials.

At a long table in front of the dais sat an impressive row of advocates representing the appellants and the King. There was Mr. Banerjee, a senior advocate from Calcutta, for Apte and Madanlal Pahwa, Mr. Dange for Karkare, Mr. Avasthi of the Punjab High Court, engaged at public expense to represent Kistayya, who was too poor to pay counsel's fees, and Mr. Inamdar from Bombay for Parchare and Gopal Godse. Nathuram Godse had declined to be represented by a lawyer, and had made a prayer that he should be permitted to appear in person and argue his appeal himself. This prayer had been granted, and so he stood in a specially constructed dock. His small defiant figure with flashing eyes and close-cropped hair offered a remarkable and immediately noticeable contrast to the long row of placid and prosperous-looking lawyers who represented his accomplices. The plea of poverty on which Godse had based his request to be present in person was only an excuse, and the real reason behind the manoeuvre was a morbid desire to watch the process of his disintegration at first hand and also to exhibit himself as a fearless patriot and a passionate protagonist of Hindu ideology. He had remained completely unrepentant of his atrocious crime, and whether out of a deep conviction in his beliefs or merely in order to make a last public apology, he had sought this opportunity of displaying his talents before he dissolved into oblivion.

On the right-hand end of the front row sat four lawyers who were appearing for the prosecution—Mr. Daphtary, Advocate-General of Bombay, Messrs. Patigar and Vyavakarkar, also from Bombay, and Mr. Kartar Singh Chawla of our own High Court.

I have made it a rule never to make a deep study of any case before the actual hearing begins. I usually

read the judgment appealed against to acquaint myself of the salient facts and get an overall impression of the matter I have to deal with. I have always been of the view that too close a pre-study of the evidence and a mastery of the details involved hinder a fair and impartial hearing, because, away from the open atmosphere of the court and without the point of view of the two parties before it, the mind is apt to interpret the whole case in the light of its personal prepossessions. This builds up an unconscious resistance against the arguments of counsel, for though judges are perpetually advertising the remarkable fluidity of truly judicial minds and their capacity for remaining open till the last word in a cause has been uttered, eminent judges are notoriously obstinate and difficult to dislodge from their beliefs and convictions. I have known judges who come to court even more fully prepared than the lawyers engaged by the parties. I have suspicion that they do this partly from a sense of their high duty, but also because of their desire to make an exhibition of their industry and erudition. No matter how learned and experienced the judge, if he has made a deep study of a case he will inevitably have formed an opinion regarding its merits before he comes to court. So, he will start with a bias and it will be difficult to displace him from his position, for his subconscious mind will refuse to admit that something important escaped his close study of the case or that a certain piece of evidence was erroneously interpreted. A truly liquid mind is a very rare commodity among high judicial dignitaries.

My friend and colleague Mr. Justice Achhruram has always been a very industrious lawyer. He commanded an extensive and lucrative practice at the bar before he was raised to the bench, and he brought with him his inimitable capacity for hard work and his

deep knowledge of civil law. Criminal law and procedure had remained comparative strangers to him, though he had often sat on a bench dealing with criminal matters. For weeks before the appeal of Godse and his accomplices came up for hearing, he had been studying the bulky volumes in which the entire evidence, oral and documentary, was contained. There were in all 1,131 printed pages of foolscap size and a supplementary volume of 115 pages of cyclostyled foolscap paper. He had taken pains to look up a number of reported cases dealing with some legal aspects of the trial, and had made a note of these rulings. So, when he came to court on the morning of May 2, he showed a complete understanding of the facts of the case as well as of the points of law raised in the memoranda of appeals.

I have always had the profoundest respect for my quondam colleague, both as a lawyer and as a judge, and I shall continue to respect his learning, but his habit of industry had a most unfortunate consequence on the first day of the Godse appeal. The case was opened by Mr. Banerjee, who started by putting forward an argument that a charge of conspiracy could not survive the consummation of the purpose of the conspiracy, and the conspirators could not be tried on multiple charges of conspiracy to murder Mahatma Gandhi and also of actually murdering him. They should have been tried for murder and abetment of murder. Mr. Banerjee's argument was that owing to this serious irregularity the trial of all the appellants was vitiated. It was, as lawyers say, a nice point, and much could be said for and against it; but no sooner had Mr. Banerjee uttered a few sentences than Mr. Justice Achhruram cut him short by drawing his at-

tention to a number of reported rulings from the various High Courts of India. Mr. Banerjee tried, in vain, to expound the law on the subject according to his own understanding of it. The merest reference to a decision which supported his argument was repulsed by a volley of rulings to the contrary. My friend Mr. Justice Bhandari, as the seniormost judge of the bench, felt that he should be the one to guide and control the proceedings, which during the course of the day resolved themselves into an animated duologue with Mr. Banerjee being allowed to utter only a few brief and minor speeches. Bhandari J. was greatly concerned about the unusual trend which the hearing had taken, and thought that the bench was making a far from dignified exhibition of its judicial attitude in a case which was drawing very widespread attention. He feared we might convey the impression that we had already made up our minds about the whole case and had no wish to examine the merits of any argument advanced on behalf of the convicted persons.

After the day's proceedings were over he came to my chamber and confided to me his irritation over the day's proceedings and his misgiving about the future conduct of the case. He asked me how he should deal with the situation. I agreed with him that the day had been a very unusual one, and, if the faces of the large audience were any indication, we seemed to have provided a great deal of entertainment for the gallery.

'But he won't let the case proceed. Gopal, we can't go on like this. The lawyer should be allowed to argue his case.'

'H'm, yes. But, you know, some judges like to talk. They just can't help chipping in when counsel is arguing. It happens even in England.'

'Don't you think I should speak to him? You see, we have spent five hours over the case and we haven't advanced a single step forward.'

'Well, you might mention it to him. He won't like it.'

Mr. Justice Achhruram didn't like it. In fact, he greatly resented it, and for the next few days relations between two of the members of the bench were far from cordial. They hardly spoke to one another, and each greeted the other with a scowl. Fortunately this quarrel was short lived, and was soon forgotten in the complexities of the case and the intricate pattern of the evidence each detail of which had to be scrutinised and appraised.

I shall not dwell upon the legal issues raised before us, as they contained little of any interest to the general reader, and even to the lawyer they offered only a few familiar aspects of procedural rules and were scarcely germane to the merits of the case. Before, however, narrating the story of the manner in which the conspiracy was hatched and its purpose achieved, let me briefly introduce the individuals upon whose destinies we were called upon to make a pronouncement.

Nathuram and Gopal Godse were the sons of a village postmaser. They were a family of six, four brothers and two sisters. Nathuram, the second child, was not an industrious student, and he left school before matriculating. He started a small business in cloth, but when this did not prove profitable he joined a tailoring concern. At 22 he joined the Rashtrya Swayam Sewak Sangh—an organisation of which the avowed aim was to protect Hindu culture and solidarity. A few years later he shifted to Poona, and became Secretary of the local branch of the Hindu

Mahasabha.* He took part in the civil disobedience movement in Hyderabad, where Hindus were complaining of being deprived of their rights by the Muslim government of the Nizam. Nathuram was arrested and sentenced to a term of imprisonment. He had by now, become deeply involved in Hindu politics and had read widely in History and Sociology. He decided to remain free from the bonds and impediments which matrimony brings with it, and to devote all his energies to the aim he had set before him. At Poona he met Apte, who was then employed as a school teacher, and started a newspaper **Agarni**. The name was later changed to **Hindu Rashtra**. Godse was strongly opposed to what he called Mahatma Gandhi's policy of appeasing the Muslims, and adversely criticised any move to concede Jinnah's demands. He was resentful of Mahatma Gandhi's visits to Jinnah, of his friendship with Surawarhi, a Muslim leader from Bengal. The Government warned him when his writings became inflammatory and dangerous to public peace. This did not suffice, his security deposit under the Press Security Act was forfeited. He was asked to make a fresh deposit, and the money was hurriedly collected from the sympathisers of the Hindu Mahasabha cause. The bomb incident of January 20, 1948, was reported in **Hindu Rashtra** with more than a touch of gloating satisfaction in the headline: RE-

* The Hindu Mahasabha is a political body formed about thirty years ago to protect the interests of the Hindus. The Mahasabha acquired vigour and importance only when Veer Savarkar, after a long period of incarceration for a revolutionary offence, joined it and became its president. The slogan of the Mahasabha was Akhand (undivided) Hindustan or Akhand Bharat.

PRESENTATIVE ACTION SHOWN BY ENRAGED HINDU REFUGEES AGAINST THE APPEASEMENT POLICY OF GANDHIJI.

Godse had made a study of **Bhagwadgita** and knew most of its verses by heart. He liked to quote them to justify acts of violence in pursuing a righteous aim. He had a fiery temperament which he usually endeavoured to conceal under a calm and composed exterior.

His younger brother, Gopal, was not quite so passionate in his espousal of the Hindu cause. After passing his matriculation examination he, too, joined the tailoring concern in which Nathuram worked. He married and had two daughters. After working for some time for the Hindu Mahasabha, he joined the Army as a member of the civilian personnel, and was appointed a store-keeper of the Motor Transport Spares Sub-Depot at Kirkce, a military station near Poona. During the war he went to Iraq and Iran and came back with a fuller understanding of the rights of men and the importance of freedom. He was greatly influenced by Savarkar's speeches against the proposal to divide India, and became converted to the creed of violence. His brother, Nathuram, counselled discretion and said to him: 'You are a married man with responsibilities and commitments. Think twice before embarking on this dangerous course.' Gopal hesitated, thought over the matter, but in the end decided to throw in his lot with Nathuram.

Narayan Dattatrya Apte came of a middle-class Brahmin family. After taking his B.Sc. degree he became a school teacher at Ahmednagar. There he started a rifle club and joined the Hindu Rashtra

Dal.* During this time he met Nathuram Godse and became friendly with him. In 1943 he joined the Indian Air Force and was awarded a King's Commission. Four months later he resigned because his younger brother's death necessitated his return home to look after the affairs of the family. The following year he joined Godse to help him with his newspaper on the management side. His close association with Godse converted him to the belief that nothing substantial could be achieved in the political field by peaceful means. To the last he displayed a more steadfast and courageous attitude than Godse, though he did not possess Godse's religious fervour nor his ebullient enthusiasm.

Vishnu Ramkrishnan Karkare had a chequered childhood and adolescence. His parents, unable to support him and bring him up, took him to an orphanage and, leaving him there, abandoned him. He ran away and earned his livelihood by taking up odd jobs in hotels and restaurants. He joined a troupe of travelling actors, and finally started a restaurant of his own in Ahmednagar. He became an active member of Hindu Mahasabha, and was elected secretary of the district branch. It was thus that he came to know Apte, and the two became close associates. With Apte's help, Karkare successfully contested the election to the Ahmednagar Municipal Committee. In 1946 he went to Noakhali with a relief party to render assistance to the victims of Muslim mob violence. He stayed there for three months and witnessed the kidnapping and raping of Hindu women. He came back greatly embittered and expressed his indignation

* A body of young men with militant views who set themselves up as defenders of their motherland, and practised military drill with sticks and batons.

when Mahatma Gandhi said that he had not seen a single instance of kidnapping or rape. The payment of Rs. 10,000/- to Ghulam Sarwar, a Muslim M.L.A. of Bengal, amounted, he said, to awarding a vicious criminal because Ghulam Sarwar had been responsible for many acts of violence against the Hindus.

Madanlal Pahwa, a Punjabi Hindu from Pakpattan (now in Pakistan), had the makings of a firebrand. He ran away from school to join the Royal Indian Navy. When he failed to pass his examination he went to Poona and joined the Army. After a brief period of training he asked for, and was given, a release order. He went home to Pakistan, and when large-scale rioting started in 1947, he was evacuated to Ferozepore. He saw his father and aunt being massacred by a Muslim mob before he left Pakistan. He tried in vain to secure employment, and his continued failures added to his sense of resentment. In December 1947 he met Apte and Godse, and began organising demonstrations by groups of refugees against the Government and its apparent lack of sympathy for the Hindu victims of the partition.

Shankar Kistayya was the son of a village carpenter. He had no schooling of any kind and remained illiterate. After an unsteady period of temporary jobs, he went to Poona and obtained employment at a shop. There he met Badge, who dealt in daggers, knives and (surreptitiously) in firearms and ammunition. Badge offered to take him as his domestic servant, and Kistayya agreed to serve him at a salary of Rs. 30/- per month. Kistayya proved a willing and energetic worker, and besides doing Badge's housework he washed his clothes, looked after his shop and acted as his rickshaw coolie. But when his wages fell into arrears he decamped with a sum of money which he had collected from an old woman on his

master's behalf. After the money was spent he went back to Badge and Badge re-employed him. Thereafter he 'went steady' and became Badge's trusted agent for carrying contraband arms and weapons to his customers. There was at that time quite a flourishing trade in illicit arms owing to the communal trouble in Hyderabad and other parts of the country.

Dr. Dattatraya Parchure was a Brahmin from Gwalior. His father held a high post in the Education Department of the State and was a greatly respected individual. Parchure qualified as a Bachelor of Medicine and Surgery, and joined the State Medical Service. He was dismissed in 1934 and began practising privately. He took an active part in the activities of the Hindu Mahasabha, and was elected the Dictator of the local Hindu Rashtrya Sena. In this capacity he became acquainted with Godse and Apté.

Vinayak Savarkar, or Veer Savarkar as he came to be known, was a barrister and historian. He joined a revolutionary body and was sentenced to transportation for fourteen years. He was subsequently interned. On his release in 1937 he joined the Hindu Mahasabha and devoted himself to the Mahasabha's objective for united India. He was for many years the president of this body, and exercised a great deal of influence over its deliberations and policies. He resided in Bombay, and his house Savarkar Sadan was visited by all Hindu leaders, and the meetings held there were viewed with an eye of suspicion by the authorities.

Digambar Ramchandra Badge (pronounced Bahdgay), the approver, a Maratha from Chalisgaon in East Khandesh, had a brief period of schooling, and long before the stage of matriculation could be reached he abandoned studies and went to Poona to earn

his livelihood. He experienced considerable difficulty in obtaining permanent employment, and had to be content with temporary jobs of various kinds. Once, he resorted to **satyagrah** in front of the residence of the Chairman of the Poona City Municipality. The post he was offered did not satisfy him and he left it. For some time he collected funds for a charitable institution and went with a money-box from door to door, his remuneration being one-fourth of the collections made by him. He bought small quantities of knives, daggers and knuckle-dusters from a shop and hawked them. The business brought him a little more money than what he had been able to earn hitherto. Gradually he expanded the scope of his activities, and finally started a shop of his own. The articles he dealt in did not require a licence for sale or purchase, and were at that period in great demand by political agitators and members of anti-Muslim associations. The Hindus residing near the border of the Muslim State of Hyderabad were particularly good customers. Badge, thus, came into contact with members of the Hindu Mahasabha and began attending the annual sessions of this body wherever they were held. On each occasion he opened a bookstall, well stocked not only with books but with the more popular knives, daggers and knuckle-dusters.

He met Nathuram Godse and Apte at the residence of Veer Savarkar, president of the Hindu Mahasabha. In 1947 he enlarged his business, adding contraband firearms and ammunition to his stock-in-trade. These he acquired and disposed of surreptitiously through his 'contacts' of which, by now, he had many in Poona and in Bombay. These transactions were far more lucrative than the sale of books on patriotism and Hindu solidarity.

Such was the composition of the group which came together and became united by a common hatred of what they believed was the weak-kneed policy of capitulation to Muslim arrogance, as propounded and advocated by Mahatma Gandhi. The evidence led in court revealed that the plan to put an end to this state of affairs was conceived by Godse and Apte in December 1947. In the course of the weeks that followed others joined the small band, and the details of the plan began to be worked out. The decision to strike was taken on January 13, when it was learnt that Mahatma Gandhi had started his fast to put pressure upon the Government of India and compel it to review its former decision to withhold the payment of 55 crores rupees to Pakistan. When after three days the Government surrendered to Mahatma Gandhi's demand, and announced its revocation of its previous decision by declaring that the Indo-Pakistan agreement relating to financial adjustments would be implemented immediately, the conspirators could wait no longer. They hastened to complete their arrangements and achieve the aim they had set before themselves.

The execution of this plan needed forethought, teamwork and a dovetailing of movements and arrangements which were not free from a certain measure of complexity. The first thing that Godse did was to make an assignment of his assets. He himself was unmarried and had no commitments to leave behind when his immortal longings were satisfied. The two persons who were nearest to him, and for whom he felt most concerned were his brother, Gopal, and his friend and associate, Apte. They had joined him in this perilous undertaking, and they ran a grave risk of losing their liberty and possibly their lives. He held two insurance policies of Rs. 2,000/- and Rs. 3,000/-

respectively on his life. On January 13 he nominated Apte's wife as the beneficiary under the first policy, and on the following day he similarly assigned the second policy for Rs. 3,000/- to his brother's wife. Then, accompanied by Apte, he left Poona for Bombay, with his mind a little easier in, at least, one respect.

On the same day Badge, accompanied by his servant, Shankar, also left for Bombay. They took with them a bag containing two gun-cotton slabs and four hand-grenades which were deposited for safe custody in the house of Dixitji Maharaj, a prominent nationalist, religious leader and an old patron of Badge. Badge had frequently sold knives and daggers to him for 'distribution among Hindus living near Muslim States, for their protection'. Badge spent the night at the office of the Hindu Mahasabha, and in the morning Godse and Apte met him there and discussed the details of their plan. Pahwa and Karkare had been in Bombay since January 10, and they, too, joined the deliberations at the Hindu Mahasabha office. All five of them went to call on Dixitji Maharaj and pick up the bag containing the explosives. Dixitji Maharaj had a friendly talk with his visitors, and believing that the hand-grenades were to be used against the Muslims of Hyderabad, where communal trouble was brewing, went to the length of explaining the best manner of working and throwing a hand-grenade. But when Apte asked him for the loan of a revolver, he made an evasive reply. The visit of these five persons remained in Dixitji's memory because of a prediction made by an astrologer that he (Dixitji) would suffer bodily harm on January 17. In fact, on that day, he fell down and hurt himself, and he remembered subsequently that it was just two days before the accident that Badge and his companions had come

to visit him. Dixitji was thus able to recall the whole incident and narrate it, complete in all details, when he gave evidence at the trial.

Pahwa and Karkare had no further business in Bombay, and Pahwa wanted to see his relatives in Delhi and discuss with them the question of his marriage. So, these two left Bombay by train on the evening of the 15th. They arrived at Delhi on the 17th, and after a fruitless attempt to get living accommodation at the office of the Hindu Mahasabha engaged a room in a small and inexpensive hotel in Chandni Chowk. While registering their arrival, Karkare gave a false name, describing himself as B. M. Bias. Pahwa stated his correct name but entered a wrong address in the column 'Permanent address'.

Badge and his henchman, Shankar, went back to Poona, and after entrusting his arms and explosives to a sympathiser of the Hyderabad State Congress returned to Bombay on the morning of the 17th. There they met Godse and Apte at the railway station in pursuance of a previous appointment. Money was needed for carrying out their project, and they went round Bombay on a campaign of collecting funds. By representing that they needed money for the Hyderabad movement, they succeeded in securing Rs. 2,100/- from a number of persons. The same afternoon Godse and Apte travelled to Delhi by plane. They bought their tickets under assumed names—Godse representing himself to be D. N. Karmarkar and Apte, S. Marathe. In Delhi they stayed at the Marina Hotel, and abandoning the aliases they had adopted for the air journey registered themselves as S. Deshpande and M. Deshpande. In this hotel they stayed till the 20th. Badge and Shankar travelled to Delhi by train and reached there on the evening of the 19th.

M. M. - 10

They went to the Hindu Mahasabha Bhavan and stayed there.

Gopal Godse was, as I have already mentioned, employed as a store-keeper in an Army depot near Poona. On the 14th he submitted an application for seven days' leave beginning January 15. The leave was refused on the ground that he was required to appear before a board of officers on the 16th. On the 16th he renewed his application and asked for a week's leave from the 17th. This was granted, and he was able to reach Delhi on the evening of the 18th. His train was late, and he was fast asleep when it arrived at the New Delhi railway station. His brother, Nathuram, who had come to receive him, thus could not see him. The train went on to Old Delhi, and there Gopal alighted and spent the night on the platform with a group of refugees. The next morning he went to the Mahasabha Bhavan and met his friends. Arrangements for their stay in the Bhavan were made, and further consultations took place at Pahwa's hotel in Chandni Chowk. All the seven conspirators had thus arrived in Delhi by the evening of January 19. They had provided themselves with two revolvers, some gun-cotton slabs and several hand-grenades. One of the revolvers was a service weapon which Gopal Godse had with him from the time he had been posted abroad. At Nathuram's request he had brought it with him, and the other revolver was procured by Badge from Sharma, an old client of his to whom he had formerly sold it. The hand-grenades and gun-cotton slabs were all provided by Badge.

On the morning of the 20th Apte, Karkare, Badge and Shankar paid a visit of reconnaissance to Birla House. Birla House was approached from what was

then known as Albuquerque Road.* Beyond the main house were situated the servants' quarters. There was a verandah at the back of the quarters, and in front of the verandah a large platform had been constructed. It was here that the prayer meetings of Mahatma Gandhi were held. Mahatma Gandhi himself sat on a wooden divan under the verandah roof while the members of the audience disposed themselves on the platform. The wall behind Gandhiji's divan contained a trellis-work window which provided ventilation to the room beyond. The back gate of the house opened on to a service lane, and most of the regular visitors came to the prayer meetings by this gate. The conspirators entered the house by the back door and inspected from outside the room with the trellis-work window. A one-eyed man was sitting in front of the door of this room, and they did not think it was to seek entry into it at that moment and thus draw attention to themselves, but they walked round through the verandah and, finding no one within sight, Apte measured the openings of the trellis-work with a piece of string. He came to the conclusion that it was possible to fire through these openings which were wide enough to allow even the passage of a hand-grenade of the size they had brought with them. It was decided that Godse and Apte would direct operations by giving pre-arranged signals at appropriate moments. Badge, armed with a revolver and a hand-grenade, would enter the servants' quarters behind Mahatma Gandhi's seat by pretending that he intended to take a photograph of the prayer meeting through the trellised window. Pahwa would explode a gun-cotton slab near the back gate, in order to distract

* Now 30 January Marg in commemoration of Mahatma Gandhi's assassination on January 30, 1948.

the attention of the gathering at the prayer meeting and to create a stampede. In the ensuing confusion, Badge was to shoot at Gandhiji with his revolver from behind and follow up by throwing his hand-grenade at him. From the front his servant, Shankar, was to duplicate his master's performance by similarly firing a revolver and throwing a hand-grenade. Gopal Godse Pahwa and Karkare were then to throw a hand-grenade each and everyone was to escape as best he could.

The revolvers brought by Badge and Gopal Godse had not been tested to see if they fired accurately. Badge's revolver was an old one which he had sold to one of his customers and had borrowed it back from him for the occasion, and Gopal's revolver had lain unused with him for several years. So after the reconnoitring at Birla House, Apte, Badge, Gopal and Shankar went in to the forest behind the Mahasabha office to try out the weapons. It was seen that the chamber of Gopal's revolver was defective and did not work. A shot fired from Badge's revolver fell very short of the target. Apte declared that this revolver, too, was useless. Gopal undertook to repair the weapons, and Shankar was sent to fetch a bottle of oil and a penknife from his bag in the Mahasabha office. While Gopal was engaged in repairing the revolvers a Forest Guard was seen approaching. The weapons were quickly hidden, and Pahwa spoke to the guard in Punjabi to allay any possible suspicion on his part. When the guard passed on to continue his round, the repairs were completed, but there was no further trial firing.

A final meeting at Marina Hotel took place in the early afternoon. Nathuram lay on his bed, complaining of a severe headache, and the others sat round him while the details of their plan were discussed and the

weapons and explosives were distributed. The primers and fuse wires in the slabs and hand-grenades were fixed, and Nathuram admonished them to perform their parts with diligence and care. 'It is your last chance,' he said, 'you must not fail.' Fictitious names were assigned to everyone, which were to be used should need to address each other in public arise. They changed their clothes, and Karkare even painted a false moustache, darkened his eyebrows and placed red mark on his forehead to give him the appearance of a devout Brahmin.

The crowd at the prayer meeting was bigger than usual, as this was Mahatma Gandhi's first public appearance after the 12th when he had undertaken his fast. A failure of the electric installation put the loud-speakers out of use, and Gandhiji's feeble voice could be heard only by a few who sat near him. But his discourse was repeated to the audience by Dr. Sushila Nayyar, a prominent congress worker and a close associate of Mahatma Gandhi.

Gandhiji referred to the Peace Pledge taken by the residents of Delhi, and said Delhi had done a great thing and he hoped that the signatories had taken their pledge with Truth, represented by God, as their witness. If Delhi acted truthfully, the effects of its action would be felt all over the world. He was sorry, however, that the Hindu Mahasabha had repudiated the pledge through one of its officials. Enmity towards the Muslims meant enmity towards India.

He went on to speak of a suggestion that he should pay a visit to Pakistan to stop the acts of violence against non-Muslims. Suddenly there was a loud report as if something had exploded. A moment's restlessness was observed on the periphery of the audience, and some persons were seen moving away, but Gandhiji asked everyone to remain seated and conti-

nued with his discourse. After he had concluded it, Dr. Sushila Nayyar repeated the substance of the speech to the audience from her notes. A large portion of the audience near Gandhiji's seat did not know what had caused the loud report and where exactly the explosion had taken place. Gandhiji himself thought that it was some form of military practice and, therefore, nothing to worry about. It was only when the prayer meeting was dispersing that those who had been sitting near Gandhiji's divan learnt that a Punjabi youth had exploded a gun-cotton slab near the back gate of Birla House. No one was injured, and the misguided youth had been immediately apprehended and handed over to the police. A hand-grenade, complete in every respect, was recovered from his coat pocket. Some people said that the young man's name was Madan Lal Pahwa, and that he was a disgruntled refugee who was merely making an exhibition of his bad temper. Pahwa was taken away by the police for interrogation, and the scandalised visitors went home talking about the outrage in subdued voices.

The well-laid plan of the conspirators had completely failed. All seven of them had arrived at Birla House and disposed themselves according to the decision taken by them. But at the last moment, Badge's courage failed him. He found two persons standing in front of the door which provided access to the room behind Gandhiji's divan. One of these men was the one-eyed man they had seen in the morning. A one-eyed man is proverbially ill-omened, and Badge suddenly realised that if he fired his revolver and threw his hand-grenade through the trellis-work window, he would be irretrievably trapped inside the room and escape would be impossible. He told Godse that he would, on no account, enter the room. A hurried consultation took place, and after a public attempt to

persuade Badge to adhere to the original design, his refusal was perforce accepted. Pahwa was told to detonate the slab of gun-cotton, and when the explosion took place the others waited for a general stampede which was to provide them with the opportunity for completing their task. Strangely enough, there was no stampede, no panic and no confusion. A few persons moved away. Pahwa was caught and handed over to the police, and the prayer meeting went on almost as if nothing had happened. The calculations of the conspirators were completely upset, and they scampered away in a state of near panic. Badge and Shankar hired the first tonga they met on the road, and after taking their baggage from Hindu Mahasabha Bhavan caught the night train for Poona. Nathuram Godse and Apte went to Kanpur where they stayed for one day, and then went on to Bombay where they arrived on the 23rd. Karkare and Gopal Godse spent the night of the 20th at another hotel and registered under assumed names, Gopal professing to be G. M. Sastri and Karkare, Rajgopalan. On the 21st they took the train back to Poona.

Pahwa's arrest and the failure of their plan disheartened the conspirators but did not deflect them from their purpose. During the week that followed they had hurried consultations. They had to strike at once, because they feared that Pahwa would not be able to maintain his silence when subjected to police interrogation, and it would not be long before they were traced and taken into custody. Nathuram announced his intention to assume the entire responsibility for the project and perform the deed single-handed. It was, he argued, the best and indeed the only way to bring their plan to a successful conclusion and lead them to the fruition of their desires. Karkare, in his statement to the police, gave a vivid des-

cription of the talk he had with Godse and Apte on the 26th at Thana.* This was his first meeting with them after the debacle of the 20th:

We walked and came to Thana railway station, and sat down on the cement platform near the goods yard. This was a completely secluded place. It was about 9.45 p.m. and it was a moonlit night. This place was suggested by Apte and Godse as they did not want anyone to overhear our conversation. On taking our seats on the platform I asked Apte and Godse how they had come back from Delhi after the explosion of January 20. Godse was in a calm mood and asked me not to discuss anything about the matter but talk of our present circumstances and also of our future plans. This was urgent, because Madan Lal had been arrested and he would disclose our names. Godse also said that we would be arrested by the police and our plans to assassinate Gandhiji would fail. He, therefore, suggested that there should not be nine or ten persons in the execution of the plan, because history showed that such revolutionary plots in which several persons were concerned had always been foiled, and it was only the effort of a single individual that succeeded. He mentioned several instances from history and told us that acts of single persons, such as Madan Lal Dhingra and Vasudev Rao Gogate, had been successful, because they were individual efforts. He had, therefore, decided to assassinate Gandhiji single-handed. He asked me to go on to Ahmednagar, if I so desired, and carry on the work of Hindu Mahasabha. He also requested me to push the sale of the shares of **Hindu Rashtra Parkasham**

* A suburb of Bombay.

and to look for a good writer in place of Apte. I was stunned by this suggestion and I saw that Apte was silent. I thought that Godse and Apte must have discussed the matter, and that Apte was fully aware of Godse's intention. Inside me I felt that Apte had made up his mind to stand by the side of Nathuram. I had heard that Godse was ashamed to show his face in Maharashtra, and I asked him if this was his reason for preparing himself to die. Godse looked stunned and determined and told me not to say such things and carry out the work entrusted to me. I insisted on knowing how they were going to commit the murder of Gandhiji. Godse then told me that he would procure a revolver within a day or two, or would find some other means of killing Gandhiji, and until he had accomplished his aim, he would not enter Maharashtra. I felt that I should also be with them and told Godse that I, too, was prepared for the worst and would join them in their project. I was told that Badge and Shankar had reached Poona safely and were attending to their work. Godse also told me that Apte had gone to Poona and settled his private affairs. On hearing this I became very excited, and declared my intention to do whatever they did, even at the risk of my life. Apte, on this, gave me Rs. 300/-, and asked me to go to Delhi the next day.

Godse and Apte were at that time staying in a hotel at Bombay under assumed names, V. Vinayakrao and D. Vinayakrao. On the 25th they had booked two seats on the plane going to Delhi on the morning of the 27th, giving the same false names, V. Vinayakrao and D. Vinayakrao.

In the meantime the police were making extensive enquiries just as Godse and Apte had feared. The course of these enquiries was guided not so much by what Pahwa had revealed to the police after his arrest but by a piece of indiscretion committed by him before the incident of January 20. In the beginning of October 1947 Pahwa came into contact with a Bombay professor, Dr. J. C. Jain. Pahwa appealed to him for help, saying that he was a refugee who had lost everything in Pakistan and wanted to earn his living in whatever way was possible. Dr. Jain, who besides being a professor of Hindi is the author of several books, offered to engage him as an agent for the sale of his books and pay him a commission on the sale proceeds. Pahwa agreed, but this job did not prove very profitable. It did, however, establish a friendly relationship between the two men, and Pahwa began to speak of his emotions and aspirations. He boasted of his exploits at Ahmednagar, saying that he had assaulted Rao Sahib Patwardhan at a public meeting because he was preaching Hindu-Muslim unity, adding with a note of triumph that the police had left him alone as they were all 'Hindu-minded'. He had organised a volunteer corps to defend Hindus and, in particular, the refugees. On one occasion in the beginning of January he spoke, with a mysterious air, of a plot to murder a leader. Dr. Jain thought the young man was merely boiling over with indignation, and did not believe that there was any truth in what he said. But the next time he met Pahwa he asked him the name of the leader who was to be the victim of their plot, and when Pahwa revealed the name of Mahatma Gandhi, Dr. Jain, though still incredulous, gave him some fatherly advice, telling him not to behave like a foolish child. 'You are a refugee,' he said, 'you have suffered a great deal in the Punjab

riots. Being yourself a victim of violence, you should not seek your remedy in violence,' and so on at great length in this strain. When Pahwa left him, Dr. Jain believed that he had converted the young man, if indeed there was any basis of truth in the story of the plot, and dismissed the matter from his mind as a thing of small consequence.

But when only a week later he read of the outrage at Birla House and the arrest of Madan Lal Pahwa, he was indignant with himself for having remained so criminally complacent, and at once telephoned Sardar Vallabhbhai Patel, the Minister for Home Affairs, who was present at Bombay, and Mr. S. K. Patil, President of the Bombay Provincial Congress Committee. Neither of them was available, but he was able to speak to Mr. Kher, the Chief Minister of Bombay, first on the telephone and then personally in his office. He also saw Mr. Morarji Desai, who was then the Home Minister of Bombay State. He told them the story of the plot to assassinate Mahatma Gandhi just as he had heard it from Pahwa. The police at once took the matter up and began a vigorous search for the persons who were reported to be Pahwa's associates.

Godse and Apte arrived at Delhi, by plane, at 12.40 p.m. on January 27. The same afternoon they left for Gwalior by train, reaching there at 10.38 p.m. They drove in a tonga to the house of Dr. Parchure, and stayed the night with him. The object of their visit was to procure a pistol which would fire accurately. In this they were successful, and a pistol was obtained from one Goel who was a member of Dr. Parchure's volunteer corps. Godse and Apte then returned to Delhi, reaching there on the morning of the 29th. They engaged a retiring-room at the Old Delhi railway station, and stayed there till the next morning.

Karkare had in the meantime come to Delhi, on the 28th, by train, and in pursuance of a prearranged plan he met Godse and Apte at the gate of the Birla Temple at noon on the 29th. Godse told him that a pistol had been procured from Gwalior, and that everything was ready for the final accomplishment of their plan. Godse was in a grim mood and began to explain his motives for taking the entire burden upon himself.

'Apte has responsibilities. He has a wife and child. I have no family. Moreover, I am an orator and a writer; I shall be able to justify my act and impress the Government and the court of my good faith in killing Gandhi. Now, Apte, on the other hand, is a man of the world. He can contact people and carry on the **Hindu Rashtra**. You must help him in the conduct of the newspaper and carry on the work of the Hindu Mahasabha.'

In the evening Karkare suggested a visit to the cinema, but Godse repelled the suggestion saying that he wanted to rest. Apte insisted, arguing that a little diversion would take his mind off the business of the following day and cheer him up, but Godse turned away and began reading a book. So Apte and Karkare left him and spent three hours entertaining themselves at the first cinema house they came to.

On the morning of the 30th Godse appeared calm and self-possessed, but a close observer could discern signs of an inner agitation which was battling with a determination to meet his doom with the resignation of a fatalist. He was up first of all, and was bathed and dressed while Apte and Karkare were still asleep. All three had a light breakfast and then drove in a tonga to New Delhi. After paying off the tonga they walked to a thick forest not far from where they had alighted, and Godse fired 'three or four rounds from

his pistol while Karkare standing on a high rock kept watch. Godse was satisfied with the performance of his weapon, and the party returned to Old Delhi.

Godse spoke very little in the afternoon and continued to wear a determined expression. To Karkare he said: 'You will miss me the next time.' What he meant by 'next time' was not quite clear. At 4.30 p.m. he hired a tonga, and, waving a final good-bye, drove away. Karkare and Apte followed him to Birla House in another tonga a few minutes later. The prayer meeting had not yet started, but a crowd of about 200 persons was awaiting the arrival of Mahatma Gandhi. Godse was moving among the people apparently unconcerned. Suddenly, there was a stirring in the crowd, and everyone stood up to form a passage for Mahatma Gandhi, who was seen coming up slowly with his hands resting on the shoulders of two girls who were walking by his side. As he raised his hands to join them in the customary greeting, Godse took a quick step forward, pushed aside the girl on Gandhiji's right and, standing in front of him, fired three shots in quick succession at point-blank range. Mahatma Gandhi collapsed and fell down, saying 'Hai Ram'.

Godse made no attempt to escape. He was caught, and the people nearest to him fell upon him in an attempt to belabour him. A police officer who was present rescued him and led him away from the fury of the crowd. In the panic that followed, Apte and Karkare came out with the people rushing from Birla House. They made their way to the Old Delhi railway station and returned to Bombay.

Events now moved rapidly. Pahwa's revelation to Dr. Jain could no longer be regarded as the silly talk of a misguided and imaginative youth. It became proof not only of Pahwa's individual design but of a

wider and deeply laid plan in which more than one or two persons were concerned. The field of investigation was widened to cover the entire country, and the tempo was accelerated. Arrests followed in quick succession. Badge was taken into custody on January 31, Gopal Godse on February 5 and Dr. Parchure was apprehended from his house in Gwalior the same day. Shankar was arrested on February 6, and Apte and Karkare on February 14. Prolonged interrogation of the prisoners took place, and long statements were made by each one of them. Hundreds of persons were examined, and at last the complete picture of the conspiracy and the manner of its execution were pieced together.

At the trial the defence of the conspirators was a simple one. Godse admitted firing his pistol at Mahatma Gandhi and fatally wounding him; but he maintained that it was his individual act, and nobody else had any concern with or knowledge of what he had planned to do. He could not but admit that he and Apte travelled to Delhi by air on January 17, and again on January 27, each time under assumed names. He further admitted that he and Apte had stayed at the Marina Hotel in New Delhi from January 17 to January 20, and registered their arrival by giving false names. He admitted the brief visit to Dr. Parchure at Gwalior and the fact that he gave a fictitious name to the attendant at the Delhi railway station while booking a retiring-room for himself.

Apte similarly admitted the manner in which he had travelled to Delhi with Godse on both occasions and stayed at the Marina Hotel during their first visit. He also admitted going to Gwalior and seeing Dr. Parchure, but he denied that he had gone back to Delhi with Godse. He said that he had parted company

with Godse and returned to Bombay directly from Gwalior.

Karkare admitted coming to Delhi in the company of Pahwa on January 17, and staying at Sharif Hotel under the assumed name of B. N. Bias. He denied having paid a second visit to Delhi and being present there on the day of Mahatma Gandhi's murder. He professed complete ignorance of the alleged conspiracy.

Shankar, when he was examined by the trial judge, after the conclusion of the evidence for the prosecution, made a statement supporting in a large measure the deposition of his employer, Badge, and pleaded that he had merely carried out his master's orders. But after arguments on his behalf been addressed to the court by his counsel, he retracted his previous statement, and in a written petition explained that he had been compelled by the police to admit the allegations of the prosecution. No police influence could, of course, have been exercised upon him, once the case was placed before the court, and his subsequent resilement must have been the result of persuasion by his co-accused.

Gopal Godse totally denied his participation in the conspiracy and even repelled the allegation that he had gone to Delhi on January 18 and been present there on the 20th.

Pahwa's defence was that he had gone to Delhi to express his resentment against the treatment which was being meted out to refugees like himself. He had been at pains he asserted, to explode the slab of gun-cotton at a safe distance from everyone, so that no harm should be caused by his act.

Dr. Parchure said that Godse and Apte had come to him and asked him to send some volunteers in order to stage a peaceful demonstration at Delhi; but

he had flatly refused to fall in with their wishes. He denied that he had helped them to procure a pistol.

The defence plea thus amounted to no more than this: There was no conspiracy to murder Mahatma Gandhi. The explosion of January 20 and the shooting of Mahatma Gandhi were the individual and unrelated acts of Pahwa and Nathuram Godse respectively. No evidence was, however, led by the prisoners in support of their plea, and they contented themselves by challenging the veracity of the prosecution story on the principle that the prosecution case must fall or stand by itself, and a bad case needs no rebuttal.

As already observed, the trial judge acquitted Savarkar and convicted the remaining seven persons, holding that the charge of conspiracy to murder had been proved against all of them.

Since association is the most important ingredient of conspiracy, the attempt of learned counsel for the appellants before us was to break down the links which connected the conspirators. They sought to show that no one except Pahwa was responsible for the outrage of January 20, and Nathuram Godse alone was guilty of the murder of Mahatma Gandhi, while the others did not even know of his intention. The evidence of the witnesses who had seen the various appellants together at different times was vehemently attacked, the unsatisfactory features in their evidence were stressed upon and each minor discrepancy was played out to the full. It is not difficult to pick out inconsistencies and contradictions in the statement of the most truthful witness after he has been subjected to a lengthy and tiring cross-examination by a clever lawyer. We gave the fullest benefit of every reasonable doubt to the accused persons, rejecting the evidence of any witness whose statement aroused suspicion or whose story did not sound "natural". For instance, it

was alleged by the prosecution that on January 20, before going to Birla House, Apte had lent his coat to Pahwa and retained the trousers which matched it. Pahwa was wearing this coat when he was arrested after the explosion, and the trousers were recovered from Apte's trunk on April 16, 1948. Apte had been arrested on February 14; and, taking the view that Apte's house and his belonging must have been subjected to a thorough search at the time of his arrest, we declined to rely upon the belated recovery of the trousers as a piece of evidence proving the close association of Apte and Pahwa immediately before the explosion of January 20. Similarly, we did not accept the story that Karkare and Godse had both spent the night of January 20 in a hotel room at Delhi. The statements of casual witnesses, e.g. taxi and tonga drivers, hotel boot-blacks, chance encounters, were, out of abundant caution, not fully relied upon. There was, however, enough material to hold that a conspiracy had been formed with the object of murdering Mahatma Gandhi, and that Nathuram Godse had acted in the furtherance of the common object of this conspiracy. The fact that all seven persons had gone to Delhi before the 20th of January and some of them had travelled and stayed in hotels under assumed names; the fact that all but one of them admitted their presence at Birla House at the time of the explosion; the fact that a number of hand-grenades were taken by Badge to Bombay and were carried to Delhi, and the manner of the hasty dispersal from Delhi of all the conspirators left very little doubt that all of them had gone to Delhi with a common object, and that their simultaneous presence in Delhi was not a mere coincidence. There was ample evidence of association after the explosion of January 20. There was, for instance, a telegram sent by Karkare who was in

Bombay, to Apte in Poona, on January 25. The telegram simply said: 'BOTH COME IMMEDIATELY', and this telegram was signed with the name 'B. M. Bias'. The telegram summoned Godse and Apte to Bombay.

We gave Dr. Parchure and Shankar the benefit of doubt and, accepting their appeal, acquitted them. The conviction and sentence of the remaining five appellants were confirmed.

The highlight of the appeal before us was the discourse delivered by Nathuram Godse in his defence. He spoke for several hours discussing, in the first instance, the facts of the case and then the motives which had prompted him to take Mahatma Gandhi's life. He had pursued the same line in the long written statement which he had filed in the trial court, and the following passages taken from this statement will give some indication of his opinions and attitudes:

Born in a devotional Brahmin family, I instinctively came to revere Hindu religion, Hindu history and Hindu culture. I had been intensely proud of Hindudom as a whole. Nevertheless, as I grew up, I developed a tendency to free thinking unfettered by any superstitious allegiance to any 'ism', political or religious. That is why I worked actively for the eradication of untouchability and the caste system based on birth alone. I publicly joined anti-caste movements and maintained that all Hindus should be treated with equal status as to rights, social and religious, and should be high or low on their merit alone and not through the accident of birth in a particular caste or profession. I used publicly to take part in organised anti-caste dinners in which thousands of Hindus, Brahmins, Kshatriyas, Vaishyas, Chamars and Bhangis broke

the caste rules and dined in the company of each other.

I have read the works of Dadabhai Naoroji, Vivekanand, Gokhale, Tilak along with the books of ancient and modern history of India and of some prominent countries in the world like England, France, America and Russia. Not only that, I studied tolerably well the current tenets of Socialism and Communism too. But above all I studied very closely whatever Veer Savarkar and Gandhiji had written and spoken, as to my mind, these two ideologies had contributed more to mould the thought and action of modern India during the last fifty years or so, than any other single factor had done.

All this reading and thinking brought me to believe that, above all, it was my first duty to serve the Hindudom and the Hindu people, as a patriot and even as a humanitarian. For, is it not true that to secure the freedom and to safeguard the just interests of some thirty crores of Hindus constituted the freedom and the well-being of one-fifth of human race? This conviction led me naturally to devote myself to the new Hindu Sanghathanist ideology and programme, which alone, I came to believe, could win and preserve the national independence of Hindustan, my Motherland, and enable her to render true service to humanity as well.

* * *

In 1946 or thereabouts the Muslim atrocities perpetrated on the Hindus under the Government patronage of Suhrawardy in Noakhali, made our blood boil. Our shame and indignation knew no bounds, when we saw that Gandhiji had come forward to

shield that very Suhrawardy and begun to style him as 'Shahid Saheb'—a Martyr Soul (!) even in his prayer meetings. Not only that, but after coming to Delhi, Gandhiji began to hold his prayer meetings in a Hindu temple in Bhangi Colony and persisted in reading passages from the Koran as a part of the prayer in that Hindu temple, in spite of the protest of the Hindu worshippers there. Of course he dared not read Geeta in a mosque in the teeth of Muslim opposition. He knew what a terrible Muslim reaction there would have been if he had done so. But he could safely trample over the feelings of the tolerant Hindu. To belie this belief I determined to prove to Gandhiji that the Hindu too could be intolerant when his honour was insulted.

* * *

Just after that followed the terrible outburst of Muslim fanaticism in the Punjab and other parts of India. The Congress Government began to persecute, prosecute and shoot the Hindus themselves who dared to resist the Muslim forces in Bihar, Calcutta, Punjab and other places. Our worst fears seemed to be coming true; and yet how painful and disgraceful it was for us to find that the 15th of August 1947 was celebrated with illuminations and festivities, while the whole of the Punjab was set by the Muslims in flames and Hindu blood ran in rivers. The Hindu Mahasabhaites of my persuasion decided to boycott the festivities and the Congressite Government, and to launch a fighting programme to check Muslim onslaughts.

* * *

Five crores of Indian Muslims have ceased to be our countrymen; virtually the non-Muslim minority in Western Pakistan has been liquidated either by the most brutal murders or by a forced tragic removal from their moorings of centuries; the same process is furiously at work in Eastern Pakistan. One hundred and ten million people have been torn from their homes of which not less than four million are Muslims, and when I found that even after such terrible results Gandhiji continued to pursue the same policy of appeasement, my blood boiled and I could not tolerate him any longer. I do not mean to use hard words against Gandhiji personally, nor do I wish to conceal my utter dissent from and disapproval of the very foundation of his policy and methods. Gandhiji in fact succeeded in doing what the British always wanted to do in pursuance of their policy of 'Divide and Rule'. He helped them in dividing India and it is not yet certain whether their rule has ceased.

* * *

The accumulating provocation of 32 years, culminating in his last pro-Muslim fast, at last, goaded me to the conclusion that the existence of Gandhiji should be brought to an end immediately. On coming back to India he developed a subjective mentality under which he alone was to be the final judge of what was right or wrong. If the country wanted his leadership it had to accept his infallibility; if it did not, he would stand aloof from the Congress and carry on in his own way. Against such an attitude there can be no halfway house; either the Congress had to surrender its will to his, and had to be content with playing the second fiddle

to all his eccentricity, whimsicality, metaphysics and primitive vision, or it had to carry on without him. He alone was the judge of everyone and everything; he was the master brain guiding the civil disobedience movement; nobody else knew the technique of that movement; he alone knew when to begin it and when to withdraw it. The movement may succeed or fail; it may bring untold disasters and political reverses, but that could make no difference to the Mahatma's infallibility. 'A Satyagrahi can never fail' was his formula for declaring his own infallibility and nobody except he himself knew who a Satyagrahi was. Thus Gandhiji became the judge and the counsel in his own case. These childish inanities and obstinacies coupled with a most severe austerity of life, ceaseless work and lofty character made Gandhiji formidable and irresistible. Many people thought his politics were irrational, but they had either to withdraw from the Congress or to place their intelligence at his feet to do what he liked with it. In a position of such absolute irresponsibility Gandhiji was guilty of blunder after blunder, failure after failure and disaster after disaster. No one single political victory can be claimed to his credit during 33 years of his political predominance.

* * *

So long as Gandhian method was in the ascendance frustration was the only inevitable result. He had, throughout, opposed every spirited revolutionary, radical and vigorous individual or group, and constantly boosted his Charka, non-violence and truth. The Charka had, after 34 years of the best efforts of Gandhiji, only led to the expansion of the

machine-run textile industry by over 200 per cent. It is unable even now to clothe even one per cent of the nation. As regards non-violence, it was absurd to expect 40 crores of people to regulate their lives on such a lofty plane and it broke down most conspicuously in 1942. As regards truth the least I can say is that the truthfulness of the average Congressman is by no means of a higher order than that of the man in the street, and that very often it is untruth, in reality, masked by a thin veneer of pretended truthfulness.

* * *

Gandhiji's inner voice, his spiritual power and his doctrine of non-violence, of which so much is made of, all crumbled before Mr. Jinnah's iron will and proved to be powerless.

Having known that with his spiritual powers he could not influence Mr. Jinnah, Gandhiji should have either changed his policy or could have admitted his defeat and given way to others of different political views to deal with Mr. Jinnah and the Muslim League. But Gandhiji was not honest enough to do that. He could not forget his egoism or self even for national interest. There was, thus, no scope left for the practical politics while the great blunders—blunders as big as the Himalayas—were being committed.

* * *

Those who personally know me take me as a person of quiet temperament. But when the top-rank leaders of the Congress with the consent of Gandhiji divided and tore the country—which we consider

as a deity of worship—my mind became full with the thoughts of direful anger.

* * *

Briefly speaking, I thought to myself and foresaw that I shall be totally ruined and the only thing that I could expect from the people would be nothing but hatred and that I shall have lost all my honour, even more valuable than my life, if I were to kill Gandhiji. But at the same time I felt that the Indian politics in the absence of Gandhiji would surely be practical, able to retaliate, and would be powerful with armed forces. No doubt, my own future would be totally ruined but the nation would be saved from the inroads of Pakistan. People may even call me and dub me as devoid of any sense or foolish, but the nation would be free to follow the course founded on reason which I consider to be necessary for sound nation-building. After having fully considered the question, I took the final decision in the matter but I did not speak about it to anyone whatsoever. I took courage in both my hands and I did fire the shots at Gandhiji, on 30th January 1948, on the prayer-grounds in Birla House.

There now remains hardly anything for me to say. If devotion to one's country amounts to a sin, I admit I have committed that sin. If it is meritorious, I humbly claim the merit thereof. I fully and confidently believe that if there be any other Court of justice beyond the one founded by the mortals, my act will not be taken as unjust. If after death there be no such place to reach or to go to, there is nothing to be said. I have resorted to the action I did purely for the benefit of the humanity. I do say that my shots were fired at the per-

son whose policy and action had brought rack (sic) and ruin and destruction to lacs of Hindus.

* * *

May the country properly known as Hindustan be again united and be one, and may the people be taught to discard the defeatist mentality leading them to submit to the aggressors. This is my last wish and prayer to the Almighty.

* * *

My confidence about the moral side of my action has not been shaken even by the criticism levelled against it on all sides. I have no doubt honest writers of history will weigh my act and find the true value thereof on some day in future.

Godse had, while talking to Apte and Karkare, claimed a measure of competence in the arts of writing and public speaking. He made full use of his talents during the trial and at the hearing of the appeal. Before us, he reiterated the arguments he had advanced before the trial judge and supplemented them with some fresh points which he had not thought of before. His main theme, however, was the nature of a righteous man's duty, his *dharma* as laid down in the Hindu scriptures. He made moving references to historical events and delivered an impassioned appeal to Hindus to hold and preserve their motherland and fight for it with their very lives. He ended his peroration on a high note of emotion, reciting verses from *Bhagwadgita*.

The audience was visibly and audibly moved. There was a deep silence when he ceased speaking. Many

women were in tears and men were coughing and searching for their handkerchiefs. The silence was accentuated and made deeper by the sound of a occasional subdued sniff or a muffled cough. It seemed to me that I was taking part in some kind of melodrama or in a scene out of a Hollywood feature film. Once or twice I had interrupted Godse and pointed out the irrelevance of what he was saying, but my colleagues seemed inclined to hear him and the audience most certainly thought that Godse's performance was the only worth-while part of the lengthy proceedings. A writer's curiosity in watching the interplay of impact and response made me abstain from being too conscientious in the matter. Also I said to myself: 'The man is going to die soon. He is past doing any harm. He should be allowed to let off steam for the last time.'

I have, however, no doubt that had the audience of that day been constituted into a jury and entrusted with the task of deciding Godse's appeal, they would have brought in a verdict of 'not guilty' by an overwhelming majority.

The final chapter of this sad story takes us to the Central Gaol, Ambala, where Nathuram Godse and Apte were executed on the morning of November 15, 1949. After the conclusion of the trial they had been sent there to await the decision of the appeal preferred by them. Apte began to write a treatise on some aspects of Indian philosophy which he completed a day or two before his execution. Godse contented himself with reading a number of books.

The two condemned prisoners were led out of their cells with their hands pinioned behind them. Godse walked in front. His step occasionally faltered. His demeanour and general appearance evidenced a state of nervousness and fear. He tried to fight against it

and keep up a bold exterior by shouting every few seconds the slogan '**Akhand Bharat**' (undivided India). But his voice had a slight croak in it, and the vigour with which he had argued his case at the trial and in the High Court seemed to have been all but expanded. The desperate cry was taken up by Apte, who shouted '**Amar rahe**' (may stay for ever). His loud and firm tone made an uncanny contrast to Godse's at times, almost feeble utterance. The Superintendent of the gaol and the District Magistrate of Ambala who had come to certify the due execution of the High Court's order observed that, unlike Godse, Apte was completely self-possessed and displayed not the slightest sign of nervousness. He walked with a firm step with his shoulders thrown back and his head held high. Taller than Godse by several inches, he appeared to dominate over him. There was, on his face, a look not so much of defiance and justification of what he had done, as of an inner sense of fulfilment, of looking forward to a rightful end to the proceedings which had occasioned so much sound and fury. It was said afterwards that Godse had, during his last days in gaol, repented of his deed and declared that were he to be given another chance he would spend the rest of his life in the promotion of peace and the service of his country. Apte, on the other hand, maintained an unrelenting attitude. Till the very end he refused to admit his guilt, nor did he plead his innocence in the cringing tones of a beaten adversary. The study of **Bhagwadgita** and his own experiment in writing a treatise on philosophy may have taught him the futility of protest or prayer, or it may be his naturally stoic temperament, but he walked to his doom with the self-assurance and confidence of a man who is about to receive no more

and no less than the expected and deserved reward for doing his duty.

A single gallows had been prepared for the execution of both. Two ropes, each with a noose, hung from the high crossbar in parallel lines. Godse and Apte were made to stand side by side, the black cloth bags were drawn over their heads and tied at the necks. After adjusting the nooses, the executioner stepped off the platform and pulled the lever.

Apte died almost at once and his still body swung in a slow oscillating movement, but Godse, though unconscious and unfeeling, continued to wriggle and display signs of life in the shivering of his legs and the convulsing of his body for quite fifteen minutes.

The dead bodies were cremated inside the gaol, the ground where the pyres had been erected was ploughed up and the earth and ashes taken to the Ghaggar river and secretly submerged at a secluded spot.

