

**REPORT**  
**OF THE**  
**COMMISSION OF INQUIRY**  
**ON THE**

**Circumstances Leading to the detention of late Shri Sure  
Dinkar Doiphode in the Police Lock-up at Faraskhana  
Building, Pune and the cause of his death while in  
the Police Lock-up, on 11th March 1987  
and Allied Matters**



**By**  
**Shri A. S. BHATE**  
**District Judge and Additional Sessions Judge, Pune**  
**1989**

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## CHAPTER I

### Introduction

#### **Appointment of Commission :**

1. The background leading to appointment of this Commission may be understood first.

2. Pune is a big city, and second largest one in the State of Maharashtra. The police administration of Pune City is under the control of Police Commissioner, Pune. There are various Deputy Commissioners of Police, dealing with different subjects and zones. Under them are working Assistant Commissioners of Police, and down below are Inspectors, Sub-Inspectors and Assistant Sub-Inspectors. There are several police stations situated in the area of Police Commissioner, Pune. However, all the police stations do not have lock-ups in their premises. In Budhwar Peth area of Pune City, there is one big building known as Faraskhana Building. In this building, there are two police stations one is Vishrambag police station and the other is Faraskhana police station. However, the building itself falls under the jurisdiction of Vishrambag police station. There is a lock-up for police custody persons on the ground floor of this building. The incident which has given rise to the appointment of this Commission allegedly took place in the lock-up in this building.

3. On 11th March 1987, there was large-scale police Bandobast in the Pune City due to the visit of the President of India. Due to said Bandobast, several police officers were on special duty of Bandobast. The area of Raviwar Peth, Pune falls under the Khadak police station jurisdiction. Maharana Pratap Road runs through Raviwar Peth. This is one of the busy localities of Pune City. In Pune city, the Police Commissioner, Pune had issued a Notification under the Bombay Police Act, prohibiting carrying of weapons, and assembly of persons. This order was issued by the Commissioner of Police on 16th February 1987, and it was to remain in force till the expiry of 17th March 1987. Breach of this order is punishable under the Bombay Police Act. At or about 12-30 in the noon, on 11th March 1987, the police of Khadak police station, who were fortified by additional force, were on patrol duty. Some of these police found Suresh Dinkar Doiphode (hereafter referred

to as the 'victim') moving in drunk condition on Maharana Pratap Road, in front of Deepak Dresses. The victim was loudly abusing and uttering intimidatory words. He was carrying a knife. This conduct and behaviour amounted to breach of the order promulgated by the Police Commissioner. Therefore, the police caught him, he was put in a rickshaw and taken to the nearest police chowky known as Subhanshah police chowky. After drawing up a formal complaint at Subhanshah police chowky, the said victim was then removed to Vishrambag police station for being kept in the lock-up. After reaching him at the lock-up, he was allegedly kept inside the lock-up. He started demanding *Wada-Pav* for eating, after being kept in the lock-up. As the *Wada-Pav* was not served to him immediately, he started raising loud cries. He gave threat that he would make all the police force work (एकेकाला कामाला लावीन), if he was not given *Wada-Pav* immediately. Within short time, out of exasperation or some other reason, the victim, who was having only a jean pant on his person, removed the same, tied it to the *Patti* of the entrance door of the cell of lock-up, and with the help of said jean pant, hung himself and died immediately. The police on duty then made a report to the person in-charge of the lock-up. By that time, the hanging body of Suresh was removed from the suspension. The victim had died. This is the police version of the incident.

4. The usual steps for inquiry were taken by Police Department. However, when this matter became known to public at large, there was a clamour for a judicial inquiry in the matter. The inquiry was sought in order to ascertain the cause of death of Suresh, and other relevant circumstances. It was the contention of public at large that victim had died not by hanging, but due to torture and ill-treatment given to him by police. This matter was raised in the State Assembly, and upon some discussion on the Calling-attention Notice, sought by certain M.L.As., the Government of Maharashtra announced appointment of this Commission of Inquiry.

**Government Notification :**

Home Department,  
Mantralaya, Bombay 400 032.  
Dated the 7th July 1987.

5. No. LVS 0387/68-POL-11.—Whereas late Shri Suresh Dinkar Doiphode who was was involved in an offence registered under C.R. No. 195/87 in Khadak Police Station, Pune, under sub-section (1) of Section 37 read with section 135 of the Bombay Police Act, 1951 (Bom. XXII of

1951), was arrested and detained in the Police lock-up in Faraskhana building, under the jurisdiction of Vishrambaug Police Station, Pune, at about 13-50 hours on the 11th March, 1987 and was allegedly found dead at about 14-30 hours on the same day, while in the custody of the police.

And whereas the Government of Maharashtra is of the opinion that it is necessary to appoint a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952) (hereinafter referred to as "the said Act") for the purpose of making an inquiry into the causes and the circumstances leading to the aforementioned incident, being a definite matter of public importance and for making a report thereon to the State Government;

Now, therefore, in exercise of the powers conferred by Section 3 and sub-section (1) of section 5 of the said Act and of all other powers enabling it in that behalf, the Government of Maharashtra hereby appoints a Commission of Inquiry consisting of Shri A. S. Bhate, Extra Joint District Judge and Additional Sessions Judge, Pune, to inquire into, and make a report on,—

(i) the circumstances leading to the detention of late Shri Suresh Dinkar Doiphode in the police lock-up at Faraskhana building, Pune, and the cause of his death while in the police lock-up;

(ii) Whether any act, omission or negligence of any police officer or policeman or other person led to, caused or contributed to his death;

(iii) the adequacy and effectiveness or otherwise of the security measures taken by the police to guard the accused in the Police lock-up at Faraskhana building, Pune;

(iv) the measures, general and specific, which are required to be taken by the police to avoid recurrence of such accidents in future; and

(v) such other matters as may be germane to the above.

(2) The Government of Maharashtra hereby directs that, having regard to the nature of the inquiry to be made by the Commission of Inquiry and other circumstances of the case, the provisions of sub-sections (2), (3), (4) and (5) of section 5 of the said Act shall apply to the said Commission.

(3) The Commission shall submit its report to the State Government within a period of four months from the date of publication of this Notification in the *Official Gazette*.

By order and in the name of the Governor of Maharashtra.

(Sd) D. P. KAMBLE.

Dy. Secretary to  
Government of Maharashtra.

**Appointment of Secretary and staff :**

6. Shri D. S. Jamkhedkar, the then Civil Judge and Judicial Magistrate, F.C., Nasik was appointed as Secretary to the Commission by Government Resolution of Home Department No. LVS 0387/68-POL-11 dated 6th November 1987. Subsequently, the Notification was amended on 15th January 1988 and Shri Jamkhedkar, who became Civil Judge, Senior Division and Judicial Magistrate, F.C. was appointed as the Secretary of the Commission. The Government sanctioned staff necessary for the functioning of the Commission by Government Resolution No. LVS 0387/68-POL-11 dated 6th November 1987.

**Public Notice :**

7. On 16th August 1988, the Commission issued Notification, which was published in some of the specified news-papers on or about 20th August 1988. The copies of the notification were also affixed outside the office of the Commission and in the District Court premises. By this notification, the public at large, acquainted with the subject-matter of the inquiry were called upon to submit their statements or communicate their information relating to the subject-matter. The notification was detailed one and was in keeping with the requirements of Government Notification appointing the Commission. Thus, wide publicity was given to the notification. The notification was published in English, as well as in Marathi news-papers. It may be stated that in Pune city, Marathi is the language spoken and understood by almost all persons. The notification required that the statements should be submitted before the Secretary of the Commission on or before 1st October 1988. Subsequently, this time limit was extended on filing of some applications. Time was extended upto 14th October 1988. Thus sufficient time was given to enable all persons in know of information and facts to submit their versions before the Commission.

8. In reply to this Public Notification of the Commission, several police officers and/or Government officers and their supporters filed their affidavits to support the police versions. Likewise, those who opposed the police version (hereafter called as the 'non-supporters') gave their statements by affidavits. The break-up of these witnesses supporting the police version and the non-supporters is given separately in Appendices 'A' and 'B'

9. The documents which are produced before the Commission, or the documents which are exhibited, have been listed separately in Appendix 'D'.

**Advocates or counsels appearing before the Commission :**

10. Shri Vijayrao A. Mohite was appointed as counsel for the Commission by Government Resolution No. LVS 0387/88-POL-11, dated 15th December 1987, which was amended subsequently. Initially, the Resolution erroneously named Shri Mohite as counsel for Police officers/men. Appropriate amendment was made subsequently Shri Vijay V. Sawant was appointed as counsel for the police officers/men and other Government officials by Government Resolution, No. LVS 0387/68-POL-11, dated 10th August 1988. Shri V. D. Shinde, Advocate appeared on behalf of three persons, viz. Sanjay Dinkar, Gorakh Gokul and Ismail Shaikh Fakir. He generally pleaded the case of non-supporters.

**Venue of the Inquiry :**

11. As the District Court of Pune is situated in Shivajinagar area, which is very convenient for all persons to reach the office and venue of the inquiry was fixed in the premises off Shivajinagar District Court. It was, however, made clear that if required, the venue of the inquiry would be shifted to suit the convenience at a particular stage. It may be stated that the whole evidence was recorded in the Court-hall of Extra Joint District Judge, Pune, which was declared to be the venue of the inquiry. Arguments also were heard from all the parties at the same venue. The inquiry was thrown open to all persons without exception

**Rules and Procedure :**

12. Upon considering minutely all the requirements, the Commission framed Rules for the conduct of the inquiry, *vide* Exh. 3 on 30th September 1988. The Rules were made available for study to all persons, who desired to know the Rules. The Rules stipulated that an affidavit filed by any person before the Commission shall be treated as Examination-in-Chief, and the remaining parties would be allowed to cross-examine



the said witness. It was also stipulated in the Rules that the cross-examination of a particular witness would be in accordance with those Rules

**Spot Inspection :**

13. The Commission visited and inspected the spot on 17th December 1988 at 4-30 p.m. The spot was the building, in which the lock-up, where the alleged incident took place, is situated. The inspection also covered the various spots referred to by various witnesses in connection with arrest of deceased Suresh Dinkar Doiphode. The counsel for commission, as well as the counsel for police officers and Advocate for non-supporters accompanied the Commission at the time of spot inspection. The spot inspection note is kept on record at Exh. 92 in the papers. Alongwith the spot inspection note, a rough sketch is also kept on record to give an idea of the various places, which have been referred to in the evidence by witnesses.

**Map :**

14. A map of the situation of the cells in the lock-up, which was prepared by the police is placed on record at Exh. 43.

**Photographs :**

15. In the course of evidence led by police officials, certain photographs of deceased Suresh have also been produced. These photographs are in envelopes (Exh. 67 and Exh. 68). These photographs were snapped after the death of Suresh had taken place in the lock-up.

**Recording of evidence and break-up of witnesses :**

16. Recording of oral evidence commenced day-to-day from 12th December 1988, and the evidence recording was over on 23rd December 1988. 28 witnesses in all were examined on behalf of the police officers and their supporters. On behalf of the non-supporters, 6 witnesses were examined, which included the brother and the parents of deceased Suresh. On behalf of the Commission, 6 witnesses were examined. Thus total 40 witnesses were examined by the Commission. The details regarding these witnesses examined are given separately in Appendices 'A' and 'B' and 'C'.

**Arguments :**

17. The arguments were heard from the counsels of all sides from 2nd January 1989 day-to-day.

## CHAPTER II

### Brief version of police officers and their supporters regarding the incident

18. Deceased Suresh Dinkar Doiphode, according to the police was having a criminal background. He was also given to drinking. On 11th March 1987, there was a visit of a high dignitary i.e. the President of India to Pune. This visit required keeping of large scale *Bandobast* for maintenance of law and order in the city of Pune. The head of the police machinery for Pune city is the Commissioner of Police. The Commissioner of Police had issued a notification on 16th February 1987 under the provisions of the Bombay Police Act, prohibiting disorderly behaviour, assembly of persons, and carrying of weapons till 17th March 1987. In defiance of this notification, on 11th March 1987, deceased Suresh Dinkar Doiphode was found by the police of Khadak police station moving in drunk condition along Maharana Pratap Road. This area is in Raviwar Peth locality. The spot where Suresh was found, was in front of one shop named Deepak Dresses. This part of Raviwar Peth falls within the jurisdiction of Subhanshah police chowky. As stated already, Subhanshah police chowky is within Khadak police station area. Police Head Constable Shriram Gangaram Mamunkar (B. No. 1891), alongwith Police Constables (B. Nos. 3874, 3088 and 3476) were patrolling the area, and in course of their patrol round, at about 13-00 hours, they noticed Suresh on Maharana Pratap Road, giving abuses as well as threats in drunk state. Said Suresh was carrying knife in his hand. On accosting him, these police were satisfied that he could cause breach of peace, and in any event, had committed breach of the order issued by the Police Commissioner by carrying a knife. Suresh was immediately hauled up in presence of Panchas, and the knife found in his possession was seized.

19. Suresh was allegedly wearing only one jean pant on his person. There was neither any under wear under the jean pant, nor on the upper half of the body. The upper half of the body was completely naked. Suresh Doiphode was admittedly working as a coolie in Raviwar Peth area. The police version states that as Suresh Doiphode was behaving in disorderly manner, he was immediately put in one rickshaw and taken to Subhanshah police chowky. He was accompanied by two police. Other two police followed in a separate rickshaw. At Subhanshah

police chowky, a complaint was prepared for being sent to Khadak police station. The said complaint was sent at Khadak police station and Suresh was sent in rickshaw alongwith two constables, viz. police constable Shri Bhorde (B.No. 3874) and police constable (B. N. 3088) Shri Atre to Faraskhana lock -up. Suresh was not very co-operative, when he was taken to Farashkhana building. Suresh was allegedly handed over to the Guard Ammaldar in -charge of Farashkhana lock-up. The said Guard Ammaldar, alongwith other guards on duty, took Suresh inside the lock-up, and shut the lock-up door. The lock-up of Faraskhana has 4 cells inside. There is one passage, which is in front of these cells, and at the entrance of the passage is the door for the male lock-up. Outside this door is a rectangular passage going towards the exit. There is one more door at this exit. The situation can be properly understood by referring to the map. There is a female lock-up by the side, which is separated by a wall.

20. The police say that when Suresh was kept inside the lockup, he started demanding *Wada-Pav* for eating. He cried loudly again and again, asking *Wada-Pav*. He was told by the guards on duty that arrangement was being made to give the demanded *Wada-Pav*. However, Suresh was not in mood to wait or listen, and gave threat that he would make everyone work. He was striking his body against the bars of the lock-up. There was one constable, guarding the cells by standing in the passage inside the lock-up. He was standing near cell No. 3 of the lock-up. Suresh Doiphode, after crying hoarse for some time apparently decided to teach police a lesson. He removed his jean pant and became fully naked. He hung the said jean pant on the upper patti of the entrance door of cell No. 1 and then the two hanging legs of the jean pant were tied by him around his neck. He stood on the lower Patti of the door of cell No. 1, which is about 15 inches above the floor level. He then threw himself ahead from the lower Patti and thus hanged himself by help of the jean pant. He remained suspended for some minutes and swung himself in 180°. The guard inside the lock-up then called the other guard and the Guard Ammaldar. The entrance door of the lock up was thereafter opened, and Suresh was taken down. At that time, Suresh slumped from the hands of the police guards, and fell down. Suresh was motionless, and attempts to revive him were fruitless. Immediate intimation was then given by persons in-charge of the lock-up to the police station of Vishrambag, and later steps were taken to make inquiry into the cause of death of Suresh, as required by the provisions of the Police Manual. An inquiry at the hands of Magistrate was ordered by the District Magistrate. However, before the completion

of the inquiry, the Government of Maharashtra ordered a judicial inquiry, as stated in the Chapter I.

21. Thus it is the case of the police officers and their supporters that the death of Suresh Doiphode was wholly due to action of Suresh Doiphode himself in hanging by means of the jean pant in the lock-up. No police officer is responsible for causing his death.

22. At this juncture itself, it may, however, be pointed out that the post-mortem examination of Suresh Doiphode was performed by Dr. Pherwani. The said post-mortem examination has disclosed injuries at 10 places externally, and 5 internal injuries on the body of Suresh. It must also be made clear that viscera was preserved and got examined later, but no poison was detected in viscera examination.

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### CHAPTER III

#### Non-supporters' case

23. The relatives of deceased Suresh and non-supporters in general have a totally different case to make out. Suresh Dinkar was said to be a law-abiding citizen. He belonged to backward class community of cobblers. He used to toil and earn by honest means. He became an eye-sore to certain politicians in the locality. On 11th March 1987, Suresh was wearing only a half pant on his body. It is emphatically denied that jeans were on his person. Suresh was working as a coolie on the fateful morning, in front of one Bhati Kirana shop. This shop is in a lane, which is parallel to Maharana Pratap Road. The lane is towards the East of Maharana Pratap Road. While Suresh was loading a hand-cart, the police from Samarth police station came and forcibly took away Suresh. There is a faint suggestion in the argument that Suresh was so taken away on instruction or at the instance of some influential person, and probably at the instance of Shri Balasaheb Borade, who is a resident of the same locality. Suresh was severely ill-treated while being taken away forcibly. He was mercilessly beaten in Subhanshah police chowky. Suresh was unable to walk, and therefore, he was carried to the Faraskhana police lock-up. When he was put in the lock up, he died immediately thereafter due to injuries sustained as a result of torture to him. The theory of suicide, put forth by the police is stoutly denied. It is the contention that this theory is put forth only to cover up the torture-death. It is the positive contention that death of Suresh was due to shock, resulting from the various injuries caused to him, and in particular due to the laceration of spleen, which consequently resulted in internal bleeding. Thus the non-supporters are quite emphatic in saying that death of Suresh was as a result of police ill-treatment, given to him by the police of Khadak police station. They cry for justice.

## CHAPTER IV

**Course of events that took place on 11th March in connection with the arrest of deceased Suresh****Existence of prohibitory order :**

24. On 16th February 1987, the Police Commissioner of Pune had issued an order under section 37(1) of the Bombay Police Act. This order was issued vide No. SB/CP/100 of 1987. A copy of this order is placed on record at Exhibit 98 by the then Police Inspector of Vishrambag police station, Shri A. N. Deulkar, who is examined as witness No. 28 for police officers at Exhibit 90. The order (Exhibit 98) is issued by Shri B. J. Misar, the then Police Commissioner of Pune. The order was extending over the whole area of Pune Police Commissionerate, and was to remain in force from the date of order till 17th March 1987. This order directed that no person, except Government servant on official duty, was to carry arms including knives, sticks or lathis, explosives, stones or missiles, and similarly persons were prohibited from delivering harangues and speeches tending to undermine security, singing of indecent songs or music calculated to hurt feelings of the persons or communities. This order was duly published, as has been stated in answer to the question by the Commission, put to witness Shri Deulkar. The existence of this order has not been disputed at any point of time by any party in the inquiry. It has been stated at the bar that this order was duly published in Gazette also. This prohibitory order was thus in force on 11th of March 1987.

**Different versions about place of arrest**

25. Head Constable Shriram Mamunkar (Exhibit 44) was on duty at the Subhanshah police chowky on 11th March 1987. Subhanshah police chowky falls within the jurisdiction of Khadak police station. Witness Mamunkar has stated that he, alongwith police constable Shri Bhorde (B. No. 3874), police constable Shri Atre (B. No. 3088) and police constable Shri Dhumal (B. No. 3476) were on patrol duty for maintenance of law and order in Raviwar Peth area. His affidavit at Exhibit 33, which is Examination-in-chief, shows that at about 13-00 hours, when they were moving in Raviwar Peth, they found Suresh Dinkar *alias* Bhurya loudly shouting "जिसके गान्धे दम है वो मेरे सामने आओ" Suresh was brandishing a knife in his hand. As Suresh was having a

knife in the hand, he was immediately held up, and the knife with him was seized. The knife was seized under Panchanama. Suresh was taken in a rickshaw by two of the police to Subhanshah police chowky. There, a complaint was drawn up against Suresh, and after registering the complaint at Khadak police station, Suresh was taken by two police at the lock-up in Faraskhana building.

26. Reaching of Suresh to Faraskhana lock-up is stated not only by Head Constable Mamunkar, but also by Police Constable Atre (witness No. 4 at Exhibit 47), and Police Constable Dhumal (witness No. 5 at Exhibit 48).

27. There is voluminous evidence to show that Suresh was, in fact, reached at Faraskhana building for being kept in the lock-up meant for males in the said building. I shall discuss that evidence at a later stage.

28. On behalf of the non-supporters, there is material to show that Suresh was caught while he was doing innocent work of a coolie near a totally different spot. Witnesses on this point, examined on behalf of the non-supporters are : witness No. 2 at Exhibit 101—Nasir Shaikh Kasam ; witness No. 3 at Exhibit 102—Ismail Shaikh Fakir ; Gorakh s/o Gokul Pardeshi, witness No. 4 at Exhibit 103 ; and Sanjay Dinkar Doiphode (witness No. 6 at Exhibit 105). The non-supporters have examined the parents of deceased Suresh. However, these two witnesses have not stated anything, as to where and when Suresh was allegedly caught by police. The other witnesses examined by the non-supporters have made out a case that Suresh was caught near Bhati Kirana shop in a different lane, which is behind the road on which the police are alleged to have caught said Suresh.

#### What was clothing of Suresh ?

29. In this case, there is one important point, which will have to be decided first before discussing the event leading to the death of Suresh. That point is, what clothes were on the person of deceased Suresh, when he was caught by police and taken away to the police station ? This is important because, according to the police case, Suresh was wearing a jean pant only on his person, while the non-supporters, in their Examination-in-chief, have made out a case that Suresh was wearing only a half pant. This jean pant, alleged by police, is said to have been used for purpose of committing of suicide by Suresh in the lock-up. If, therefore, Suresh was not really wearing a jean pant, the whole police case will fall to ground at once.

**Evidence regarding place of arrest of Suresh :**

30. The positive case of the non-supporters is that Suresh was arrested from Dhor Galli, while he was doing coolie work in front of Bhati Kirana shop. From the map giving the idea of the locality (alongwith inspection note Exhibit 92), it will be noted that Dhor Galli is to the East of Maharana Pratap Road. As per police version, it was in front of Deepak Dresses on Maharana Pratap Road that victim Suresh was found and caught by police, while behaving in disorderly manner. Dhor Galli is totally a different lane. There is a suggestion in the argument advanced on behalf of the non-supporters that one Balasaheb Ramrao Borade had some hand in seeing that victim Suresh Dinkar was arrested by police. Though no specific motive is suggested, it is generally contended that Balasaheb Borade wanted that Suresh should go behind the bars. Said Borade (witness No. 2, Exhibit 108) has been examined on behalf of the Commission.

**Evidence of non-supporters on point of arrest :**

31. Witness No. 1 Dinkar (Exhibit 100) for non-supporters, is the father of victim Suresh. But he did not know anything about the circumstances, in which Suresh was caught or arrested by police. His affidavit, which is examination-in-Chief, contains many extraneous statement. He has, however, stated that his son Sanjay came in the evening of 11th March while he was working as a cobbler. Sanjay was accompanied by police, and it was at that time that he learnt something about the incident. He states that he had left home since morning for doing cobbler's work. His place of work is quite away. His version is not evidence for the point under consideration. It is worth/noting that Dinkar has not stated anywhere in his examination-in-Chief about having received any information in the matter of place of arrest of Suresh from anyone in the family. On the other hand, in course of questioning, made by Commission, in para 3 of evidence (Exhibit 100), this witness has stated : "Nobody has told me till today as to from where police caught him. I did not go anywhere to make inquiry, as to from where Suresh was taken away". This version of the witness will show that till evidence was given by him before Commission, he did not know, as to from which place Suresh was taken away. No doubt, he has said in his next sentence that his wife told at 9 p.m. that Suresh was taken away from near Bhati Kirana shop. But he never verified this.

**Evidence of wife of Dinkar/mother of Suresh :**

32. Sakhubai w/o Dinkar (witness No. 5 for non-supporters) (Exhibit 104) is a witness who throws no light whatsoever on the aspect, much  
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less on the point under consideration. Though her affidavit, which is treated as examination-in-chief gives many details, her evidence before the Commission washes out all the worth of her statement. She says that she does not remember anything. She has lost her memory. The affidavit, which is read out to her, contains different things than what was told by her. This will show that she is a witness, who really does not know anything. In cross-examination by Advocate for police supporters, she has definitely stated that she never stated anything to anyone except once in Faraskhana Police Station. She says in para 2 of her evidence at Exhibit 104 : "Nobody told me that my son was taken away by police, though I searched for him frantically all over." From this evidence, it will be immediately clear that version of Dinkar that it was this witness who told him that Suresh was taken from near Kirana shop of Bhati, is totally unsustainable. This witness herself does not know anything about the removal of Suresh by police.

**Evidence of other Witnesses of non-supporters on the point of arrest of Suresh :**

33. Nasir (PW-2, Exhibit 101), in his examination-in-chief, has stated that on 11th March 1987 in the morning, he alongwith his friends Nandu Pardeshi, Nitin Rakshe, Dinesh Padwal and Makdum Shaikh, after some chat, went to the shop of one Ismail. This was in Dhor Galli. There, they were having some discussion, and saw two police coming from the side of Govind Halwai Chowk. These two police asked whereabouts of Suresh *alias* Bhurya. He says that he got frightened by the query. At that time, Suresh *alias* Bhurya was loading one hand-cart just nearby. Said Bhurya was pointed out to police, and police went towards him. He further says that Suresh was immediately caught by the police, and one of them gave a slap (चाद मारा). The other pulled him, and then both the police pushed Suresh in one rickshaw, which was halted, and the police took away Suresh from the place.

**The evidence of Ismail, Witness No. 3 for non-supporters:**

34. Ismail (Exhibit 102), in his examination-in-chief says that in the morning of 11th March 1987, he had gone to Bhati Kirana shop for purchase of a soap cake. At that time, he saw his friends Nandu Pardeshi, Nitin Rakshe, Dinesh Padwal and Makdum Shaikh. They were standing near Bhati Kirana shop. When he was purchasing soap-cake, he noticed Bhurya *alias* Suresh standing at some distance. Two police were giving him merciless beating (बे रहम मार रहे थे). Then he was pulled by one of the constables. Suresh was dragged and taken

away. The witness says that he reached the soap cake at his house and returned back immediately for finding out, as to what was the matter. He again saw merciless beating to Bhurya. He says that he saw brother of Suresh *alias* Bhurya, who was coming rushing at the spot, and he told all the incident to brother of Bhurya. According to him, he then went back towards his house.

**Evidence of Gorakhnath, Witness No. 4 for Non-supporter.**

35. Gorakhanath Pardeshi *alias* Nandu (witness No. 4, Exhibit 103), in his examination-in-chief says that on relevant day, he was talking with his friends near Bhati Kirana shop. He does say that two police came from Govind Halwai Chowk near them, and asked whereabouts of Bhurya. According to him, Bhurya was pointed out to police, and police immediately went near Bhurya, who was loading the hand-cart only few feet away. Police then gave beating to Bhurya, and forcibly pushed him in one standing rickshaw, and then took away the said rickshaw towards Subhanshah Police Chowky.

**Evidence of Sanjay Doiphode, Witness No. 6 for Non-supporters :**

36. PW-6 (Exhibit 105) Sanjay Doiphode is the younger brother of deceased Suresh *alias* Bhurya. In examination-in-chief, Sanjay would have it that one Muslim boy came to him on 11th March 1987 at about 3.30 p.m. and told him that his brother was being beaten by police, and that police were taking his brother away. He, therefore, rushed out and saw from some distance from his house that police were removing his brother Suresh forcibly from near Bhati Kirana shop in Dhor Galli. He claims to have gone after the police and Suresh, who went in a rickshaw. It may be pointed out at this very juncture that the residential house of family of deceased Suresh is in Dhor Galli itself.

**Assessment of Evidence of Non-Supporters :**

37. It will thus be seen that the evidence regarding catching of Suresh by police in Dhor Galli comes from four witnesses. We have to evaluate this evidence. The evidence is highly inconsistent and largely irreconcilable, if minutely assessed. In the first place, none of the witnesses have given exact time, as to when the alleged incident of taking away of Suresh occurred in Dhor Galli near Bhati Kirna shop. Ismail has stated that it was in the morning.

In cross-examination by Advocate, Shri Sawant for police officers, the witness stated that he considered time upto 11 a.m. as morning time, and thereafter till 4 p.m. as noon. From 4 p.m. to 7 p.m. or 8 p.m.,

he considers it to be evening time. Therefore his evidence would mean that whatever incident had taken place near Bhati Kirana shop, was before or upto 11 a.m. This is highly improbable, and it is not even the case of non-supporters that Suresh was caught by police as early as that. Ismail also says that it was in the morning of 11th March 1987 that police took away Suresh *alias* Bhurya. In cross-examination he says that he considers noon from 12 noon to 4 p.m. Therefore, his idea of morning is before 12 noon. Again, it is not the case of non-supporters that Suresh was really caught by police as early as 12 noon. It has been consistently suggested that the incident had taken place sometime nearabout 1 p.m. (13.00 hours). That apart, Ismail's evidence is intrinsically untrustworthy, because in his examination-in-chief, he has stated that he had purchased one soap cake from the shop of Bhati Kirana store. He says that he had purchased one Hamam soap for Re. 1 on that day. Though it is true that there is a small soap cake of Hamam available for approximately the said price, the evidence of owner of Bhati Kirana shop will falsify the version of Ismail of purchase of such small cake from that shop. Bhawarlal Bhati (witness No. 4 for commission), at Exhibit 111 says in cross-examination by advocate for police officers that small cake of Hamam is not sold at all in the shop. He says that only bigger cake of Rs. 5 is sold in the shop. It will thus appear that Ismail's version that he happened to be present because he wanted to purchase soap cake, from Bhati Kirana shop at that time, is unacceptable. Ismail is trying to impose his presence on some pretext or other.

38. Ismail's version further gets blown by the evidence of none else a witness than Sanjay, who is brother of deceased Suresh. Sanjay is the younger brother of Bhurya *alias* Suresh. Ismail's examination-in-chief in affidavit shows that, when he saw beating being done to Suresh *alias* Bhurya in Dhor Galli, the brother of Bhurya *alias* Suresh was seen coming towards the spot. Ismail says further that he immediately disclosed all the incident to brother of Suresh. Thus, according to him, the younger brother of Suresh, himself saw some beating done to Suresh by Police. In cross examination by the learned advocate for the police officers, the witness says that he did tell Sanju, the younger brother of Bhurya about having seen beating to Bhurya. Further, he said that this was told to Sanjay immediately when beating was actually being done, and Sanjay witnessed it himself. Now, this brings me to evidence of Sanjay. Sanjay (Exhibit 105), in his examination-in-chief in affidavit, has disclosed that it was between 3.30 to 4. p.m. that one Muslim boy came to his house, and told him about beating done to Suresh. He claims to have rushed out of the house to notice that Suresh was held by police and was

being dragged away. Thus, Sanjay's version of having seen the incident at about 3.30 or 4 p.m. is highly inconsistent and irreconcilable with the whole case. Ismail Shaikh has very emphatically stated that the incident was of morning, and by morning, he meant before 11 a.m. Further, Sanjay's version is that some Muslim boy had come to his house. Ismail does not say of having gone to house of Sanjay. Lastly, Sanjay in his answers to the questions put by Commission, has stated that the Muslim boy who informed him about beating to Suresh, was aged only 12 years. Ismail Shaikh is a youngster of about 17 year. It will thus be seen that there is irreconcilable contradictory material coming, from the mouths of Sanjay and Ismail. Further, it is impossible to believe that Sanjay knew anything about the circumstances in which Suresh was taken away by police. In his evidence at Exhibit 105, in para 2, he says : " I was at my house for the whole day till the evening due to illness on 11th March 1987. I did not disclose whatever was seen by me to my mother on that day. " Firstly, if he was at home for the whole day till evening, it was impossible for him to have witnessed the police catching Suresh near Bhati Kirana shop. Secondly, it is highly improbable that he would have kept quiet, if he knew that police had caught Suresh at Dhor Galli, and that he did not disclose this to his mother. Mother Sakhubai has stated in her evidence that nobody ever told her that Suresh was taken away by police, though she was making frantic search for Suresh till evening. In cross-examination by learned advocate for police officers and supporters, she stated without any reservation that her son Sanjay was at home for the whole day till she left house in the evening at 7 p.m. From this discussion, I have absolutely no doubt that neither Ismail Shaikh nor Sanjay had really witnessed the incident of police taking away Suresh on that day. They are trying to depose some imaginary incident.

#### **Evidence of Gorakhnath Pardeshi :**

39. The last witness on the point, produced by non-supporters is witness No. 4 (Exhibit 103), Shri Gorakhanath Pardeshi. He is known as Nandu also. Nandu would have it that he was chitchatting with few friends in Bhati Kirana shop, when two police came from Govind Halwai chowk, and made inquiry about Bhurya. Though two police caught Bhurya, when pointed out by him and his friends, Police gave merciless beating to said Bhurya while he was loading a hand-cart. Police then forcibly took him away in a rickshaw, which was standing nearby. The versions of Ismail Shaikh (Exhibit 102) and Nasir Shaikh (Exhibit 101) are, to the effect that police had called one rickshaw, and the took away Bhurya.

Gorakhanath claims that a rickshaw was standing nearby, and Suresh was pushed in it by police. Apart from this minor contradiction, there is one major omission in the evidence of Gorakhanath *alias* Nandu. He has very shrewdly omitted to tell the time of incident in his whole examination-in-chief, stated in affidavit. However, when questioned before the Commission orally, he stated the time of incident to be 12.00 or 12.30 noon. Gorakhanath also complained that he was beaten by some *Ghisadi* persons of Dhor Galli on the ground that he had given statement favouring non-supporters. This claim appears to be merely for impressing that he is a truthful witness. He says that he had given complaint to police, but nothing was done about it. In cross examination on behalf of police officers, he does admit that he never disclosed the time of incident to anyone till the day of his oral evidence before commission. This witness was one of the persons, who had agitated for claiming an inquiry into the circumstances resulting into the death of Bhurya. He admits that he had given, alongwith others a memorandum (Exhibit 89) to the sub-Divisional Magistrate, Mr. Nahata on 28th March 1987. This memorandum nowhere mentions that arrest of Suresh was witnessed by any persons, much less by this witness. The complaint in the said memorandum is all regarding other matters, and not regarding showing of false place of arrest. Strangely enough, this witness does not give any statement before Shri Nahata, Sub-Divisional Magistrate, who conducted Magisterial inquiry, till judicial inquiry was ordered by Government. A very strange ground is given for not giving statement before Shri Nahata. The witness says that Shri Nahata did not record his statement, though statements of others were recorded. This appears impossible. It is worth-noting that though this witness is a resident of Dhor Galli, his duty as a salesman in automobile shop is in a different locality. His duty hours were from 9 a.m. to 9 p.m., except on Sundays, and 11th March 1987 was not a Sunday. It is improbable that this witness would be present in Dhor Galli at the time of alleged catching of Suresh between 12 noon to 1 p.m. Next he has admitted that he did not visit the house of Bhurya *alias* Suresh at any time with the idea of helping the family. He also did not tell anything about the incident seen by him to the father of Bhurya. If really he had seen the incident himself, it is but natural to accept that he would tell about the incident to the members of deceased Bhurya's family. Therefore, scrutinising the evidence of Gorakhanath on the normal touch-stone of probabilities, it is difficult to believe that he had witnessed the catching of Bhurya by police on the day in question. His evidence must also be kept aside.

**Witnesses examined by Commission on the point of arrest of Bhurya alias Suresh :**

40 Positive case put up by non-supporters was that Bhurya was taken away from Dhor Galli in front of Bhati Kirana shop. The Commission had, therefore, summoned the owner of Bhati Kirana shop, as well as the person who looks after the business of Bhati Kirana shop, for purpose of finding out the truth. Mulchand Bhati, witness No. 1 for Commission (Exhibit 107) is the owner of the grocery shop. He says that he was not in the shop, and the shop is looked after by his cousin named Bhavarlal. However, this witness does state that none from his shop had ever informed him about the circumstances, which ultimately resulted in Bhurya's death. Had Bhurya been taken away from a place in front of Bhati Kirana shop, one would expect that somebody would state to the owner of the shop about this incident. Bhavarlal Bhati, who is the cousin of Mulchand, is examined as witness No. 4 for Commission at Exhibit 111. Bhavarlal does state that he knew Suresh. He admits that he was present in the shop from 8 a.m. But he says that he never saw Suresh on that day in front of the shop. In cross-examination by advocate for supporters' case he says that he did not notice any commotion in front of the shop on that day. The learned advocate on behalf of the non-supporters has brought out in cross-examination of this witness that the witness is busy with the customers for the whole day. It is argued by Shri Shinde on behalf of the non-supporters that it is due to the witness being busy with the business of the shop that the witness might not have seen anything. This argument is not of much value, because it is the positive version that lot of commotion took place in front of Bhati Kirana shop on arrival of police. Beating to Suresh was allegedly done at that place by police. Later Suresh had died on the same day at night. It is impossible for anyone in the shop to forget the incident of police catching Suresh in front of shop, in these circumstances. This is irrespective of the amount of business transacted in the shop. I would, therefore, infer from evidence of this witness that Suresh could not have been taken away by police from Dhor Galli, as alleged by non-supporters.

41. Balasaheb Ramrao Borade is examined by Commission at Exhibit 108 (being witness No. 2 for Commission). This witness is a person of status from Dhor Galli. He claims no knowledge of the incident. He states that he was out of the house from 11.30 a.m. till evening. I had pointed out earlier that the non-supporters have suggested in course of argument that it was at the instance of Shri Borade that

Suresh was taken away by police. But while Borade was in the witness box, no such suggestion was made to him on behalf of the non-supporters. Shri Shinde, the learned advocate for non-supporters advanced the argument against Shri Borade only on the ground that Shri Borade never came forward to make statement either before police or before the Sub-Divisional Magistrate, when the Magisterial inquiry was in progress. I fail to understand, as to how such conduct on the part of Shri Borade would lead to inference that he was the person who instigated police to arrest Suresh. Lot of other persons including one Shri Abnave, who had asked for an inquiry into this matter, as also, Gerakhnath *alias* Nandu, whose evidence is already discussed by me had also not given any statement till the Commission called them for giving evidence. It would be jejune to infer at once that these persons were also hostile to deceased. In fact, they are supposed to be the friends of deceased Suresh. I would say that there is absolutely no material before the Commission to suspect that Shri Borade had done anything to get Suresh arrested by police.

42. The role of Shri Borade is adversely commented upon by Shri Shinde on one additional circumstance. Shri Sanap, the then Assistant Commissioner of Police, in-charge of Deccan Gymkhana Division, which included Vishrambag police station area, had made one departmental inquiry into the episode of death of Suresh. The said report is at Exhibit 113. In para 3 of the report, there is a reference that Subhanshah police chowky received a phone message that one person was behaving disorderly, and therefore, police of that chowky were patrolling the area. It is argued by Shri Shinde that reference to the receipt of phone message will support his contention that somebody had asked police to catch Suresh. Shri Shinde argues that the police have suppressed the evidence regarding said phone message. As there is a telephone instrument with Shri Borade, in all likelihood it was Shri Borade who had made the phone-call. It is not out of place to state that Shri Borade himself is a leader of depressed class. The deceased was also a person belonging to the depressed class. In absence of any material that Shri Borade had any grudge against Suresh, it is mere imagination to suggest that Shri Borade had made phone-call. Anybody from the locality could have made the phone-call. It is true that Shri Mamunkar, Head Constable (Exhibit 44) has denied to have received any phone-call that Suresh was uttering abuses or irrelevant speech. Shri Shinde argues that in Exhibit 113, there is a reference to receipt of phone message at the chowky, but Head Constable, Mamunkar denies of having received any phone-call at the chowky, showing that Mamunkar wants to suppress. This is not correct. The

question put to Shri Mamunkar was that, whether any phone message against disorderly behaviour of Suresh was received, and he has answered the same in the negative. The report of A.C.P., Shri Sanap shows that the phone message was not in respect of any particular person, but in respect of some unknown person's behaviour. Therefore, there is nothing contradictory in the report submitted by the A.C.P., and the evidence of Head Constable Mamunkar.

43. All the witnesses examined on behalf of the police, who were suggested that Suresh was caught in Dhor Galli, have positively and emphatically denied the suggestion.

44. To conclude from all the material available, the positive case of non-supporters that Suresh was caught by police in Dhor Galli at about 1 p.m. on 11th March 1987 must be discounted.

**Whether evidence of police-case supporters is acceptable :**

45. Before I discuss the merits of the evidence of the supporters of police case on the point under consideration, let me discuss the principle regarding standard of proof in inquiries held under the Commissions of Inquiry Act, 1952 (hereafter referred to as 'the Act'). The standard of proof, which is expected by any Commission of Inquiry appointed under the Act is not fixed one. It is determined with reference to the scope of inquiry and also the nature of matter or charge to be inquired into. An inquiry under the Act cannot be equated with criminal trial, even though some of the allegations under the inquiry may have ingredients of criminal offence. Jurists are not unanimous as to what is the standard of proof required for inquiries under the Act. It has been accepted by and large that the standard of proof for inquiries under the Act is the standard of "prima facie" proof". Inquiry not being a criminal trial, inasmuch as it lacks punitive punch, the standard of proof must be different than the one in a criminal trial.

46. In view of this position of the standard of proof in inquiries under the Act, it will follow that the Commission has to balance the evidence, and then to find out, which is more probable evidence. The evidence of non-supporters has been found to be utterly unreliable. As against such evidence, the evidence of police officers and their witnesses appears more trustworthy.

**Evidence of police, who were present at the time of catching of Suresh :**

47. Head Constable Mamunkar (Exhibit 44) has deposed on affidavit that he, alongwith 3 other constables, were on patrol duty on 11th



March 1987 in Rayiwar, Peth, when they found in front of Deepak Dresses, deceased Suresh uttering filthy words and challenging persons to face him. He was having open knife in his hand. The police found him in front of Deepak Dresses at 13-00 hours, and he was immediately held and disarmed by removal of the knife. This disarming was done in presence of two Panchas under a Panchanama. Constable Vikas Atre (Exhibit 47) has, in his affidavit, stated almost similarly; so has constable Rupji Dhumal at Exhibit 48 in his examination-in-chief. Constable Bhorde, who was the fourth police official in the patrol party, has not been examined before the Commission.

48. The cross-examination of Mamunkar made on behalf of the non-supporters does not bring out any material to show that Suresh *alias* Bhurya was caught elsewhere. It is argued that in the cross-examination, Mamunkar has stated that Suresh was not uttering abuses to any particular person, and therefore, his version that Suresh was uttering filthy abuses and challenging persons, is unreliable. This argument is without much substance. Suresh was challenging persons at large, and therefore, it is improbable that he would address abuses to any particular person. There is absolutely no other material to discount the evidence of Head Constable Mamunkar.

49. The evidence of constable Atre also remains unshaken in the cross-examination. In the cross-examination of witness Atre, it has come that nobody had assembled around police, when Suresh was, caught by police. He makes it clear at the same time that traffic of people was in progress at that time. Shri Shinde, the learned advocate on behalf of the non-supporters contended that Shri Mamunkar (Exhibit 44) had admitted in cross-examination that some persons had assembled around Suresh, while he was uttering threats. According to Shri Shinde, there is contradiction in evidence of Mamunkar and Atre, making their version unbelievable. As pointed out already, Constable Atre has stated that traffic was going on and it is likely that Mamunkar thought that some of the persons in the traffic were persons who had assembled around. At any rate, this is a very minor contradiction. The road in question is admittedly very busy road and it is very likely that some persons might have paused for a fraction or second or so, and gone away. Therefore, it can be said that persons had stopped, as well as it can be said that there was no assembly of persons. In my humble view, the contradiction is not such as would throw cloud of doubt on the version of police officers regarding the place of arrest of Suresh

50. Constable Dhumal's evidence has also stood the cross-examination.

51. It is submitted by Shri Shinde, on behalf of the non-supporters that Head Constable Mamunkar is unworthy of credit, because he says that all the four constables, who were on duty at Subianshah police chowky, were patrolling at one and the same time. In fact, constable Dhumal has also stated that there was nobody in the chowky while the four police officers started for patrol. Shri Shinde contends that A.C.P., Shri Sanap, examined by the Commission at Exhibit 112 (witness No. 5 for Commission) has stated in course of cross-examination by the learned advocate for non-supporters that normally one head constable ought to be present in every police chowky. Shri Shinde builds up his argument that in view of this requirement, Head Constable Mamunkar could not have left the chowky. It is urged that Mamunkar's presence at the time of catching of Suresh must be disbelieved, in the circumstances. It is common knowledge, in respect of many police chowkies that though expectation is that someone of the police should be at the police chowky, many a times all the staff in the police Chowky is found missing from such chowky. In several cases before the Court, and in day-to-day life, this fact comes to the notice. When Mamunkar and the police constable Dhumal are specific that there was nobody in the chowky when they left it, I fail to understand, as to how it can be said that Mamunkar has to be disbelieved, merely because it is expected that some police should remain at the police Chowky. At the best, it can be argued that the police committed breach of the rules by not keeping someone in the police Chowky on that day. I am not impressed by the argument that Mamunkar was not present at all at the time of catching of Suresh.

**Evidence of Witnesses other than police, produced on behalf of supporters :**

52. Hajarimal *alias* Balasaheb Oswal is an independent person of business community, examined as witness No. 3 at Exhibit 45 by police officers and their supporters. This witness was a Panch at the time of making of Panchanama of seizure of knife from Suresh *alias* Bhurya. This witness has stated in his affidavit that on 11th March 1987 at about 13-00 hours, when he was passing by the road, he saw that police had held one person, who was abusing. The police asked him to act as Panch for seizure of knife, and a knife was seized in his presence under Panchanama. There is absolutely no material in his cross-examination to disbelieve the said witness. In the cross-examination on behalf of the non-supporters, this witness stated that there was no particular

reason for public in general to be attracted near that man. The argument is built up on this statement by Shri Shinde on behalf of the non-supporters, that Suresh must not have behaved in disorderly manner. Otherwise persons would have been attracted towards him. That is altogether a different aspect. Fact remains that Suresh was holding a knife in his hand. Moreover, the witness did not think that abusing by Suresh was a particular reason for persons to be attracted. This is because such type of behaviour is not abnormal these days. People only out of curiosity turn their heads for a while at the time of such incidents, and go away. They are not particularly attracted to the incident crowding themselves around such disorderly persons. The evidence would later be discussed to show that, in fact, Suresh was drunk at the time when police caught him. Behaviour of drunk persons on public roads these days is no more an incident of any particular attraction for people. Though sad, it is a fact of life that such incidents are quite normal feature.

53. The evidence of Balasaheb Oswal (Exhibit 45) would thus clearly show that it was near Shivanjali chowk, which is just by side of Deepak Dresses that Suresh was held by police on the day in question. The signing of Panchanama by him at Exhibit 46 further corroborates his version. There is not a slightest suggestion or material to show that this witness has any special friendship with police, or any hostility towards Suresh and his family. In my opinion, the evidence of Shri Oswal is the most important evidence in the inquiry to show that Suresh must have been held on Maharana Pratap Road, as is alleged by police. The documentary evidence supports the version of police. Exhibit 91 is the copy of first information lodged by Bhorde Constable at Khadak police station. This first information reports that victim Suresh was caught near Deepk Dresses. Khadak police station diary entry at Serial No. 22 shows the same place as that of incident regarding catching of Suresh. It is rightly pointed out on behalf of the police officer, as well as by the Commission's advocate that really there is no purpose in shifting the place of catching of Suresh by police. No suggestion is given, nor any explanation is given at the stage of argument, as to why police should show a different place of catching Suresh, than the true one. No particular purpose was going to be served by shifting the place by police.

54. Therefore, taking into consideration all these aspects, I find that the police officers' case that Suresh was caught near Deepak Dresses is reliable and more probable, and *prima facie* true, than the version put up by the non-supporters. I believe the said version and conclude

that Suresh was caught, as alleged by police at 13.00 hours near Deepak Dresses on Maharana Pratap Road.

**Re : Clothes on the person of Suresh at the time of arrest :**

55. One very important question that has to be dealt with is, what were the clothes on person of deceased Suresh, when police arrested him and took him away from Maharana Pratap Road ? This aspect has some importance, because it is the case of non-supporters that victim Suresh *alias* Bhurya was not wearing any jean pant. He was only wearing a half pant. According to police case, Suresh had committed suicide by using the two legs of jean pant to hang himself later in police custody. If therefore, Bhurya was not wearing jean pant, the police case will fall to the ground automatically. It is from this angle that the commission will have to find out from evidence, as to what were the clothes on the person of Bhurya *alias* Suresh, when police caught him and took him away.

56. There is ample evidence produced by the police officers and their supporters to show that Bhurya was wearing a jean pant at the time of his arrest by police. Head Constable Mamunkar (witness No.12) at Exhibit 44 has stated that Bhurya was wearing a jean pant. Similarly, constable Rupji Dhumal (witness No. 5) at Exhibit 48, in cross-examination by Shri Shide, the learned advocate on behalf of the non-supporters, has deposed that Suresh was wearing only one pant, and it was probably a jean pant. Head Constable Liyakat Ali, who was in-charge of the guard duty at the police lock-up in Faraskhana building (witness No. 13) at Exhibit 61, in examination-in-chief, says that when Suresh was brought there, he was having only a jean pant on his person. Similarly, Narayan Chavan, who was one of the guards at the lock-up, and examined as witness No. 15 at Exhibit 64, has stated in examination-in-chief in affidavit that said Suresh was having only jean pant on his person, and no other clothing. Likewise, Shri Balu Sangle, who was another guard at the lock-up, was examined as witness No. 16 at Exhibit 65. He has stated that Suresh was wearing a jean pant. Lady constable Prafulla Gaikwad (witness No. 19, Exhibit 70), who was on guard duty on the adjoining female lock-up, has also stated that when Suresh was brought up at the lock-up as accused, the only clothing on his person was a pant. Head Constable Amir Patel (witness No. 20) at Exhibit 71 makes a similar statement in his examination-in-chief. Then Pandurang Jadhav, A.S.I., Vishrambag police station, who was supervising the lock-up, has stated at Exhibit 72 in examination-in-chief that said Suresh was wearing only a jean pant on his person. One more police officer named Rajaram

Malwadkar, in his examination-in-chief (examined at Exhibit 84) has stated that Suresh was near the lock-up door, with only a pant on his person, and naked above. It is worth-emphasising that constable Rajaram Malwadkar is a constable of Vishrantwadi police station. He had come at the lock-up for escorting some under-trials of Vishrantwadi police station, who were lodged in the lock-up. Prafulla Gaikwad the lady constable (Exhibit 70) has not been cross-examined at all. None of the other police officers have been cross-examined effectively to show that their version that Suresh was wearing only a jean pant. was not truthful.

57. Then there are at least three independent witnesses from the lock-up of Faraskhana, who saw that, when Suresh was brought in the lock-up, he was wearing only a jean pant on his person. They are: witness No. 7. Sonam Temsing at Exhibit 50; witness No. 8, Hari Chandane at Exhibit 51; and witness No. 9 Dattu Chandane at Exhibit 52. None of these witnesses have any reason whatsoever to falsely say that Suresh was wearing only a jean pant and no other clothing on his person. No suggestion is given that these persons have any hostility towards Suresh or the family of deceased Suresh. Obviously, they cannot be friendly to police, because they were themselves inmates of lock-up.

58. The most important and unimpeachable evidence is from witness No. 3, Panch Hajarimal Oswal at Exhibit 45. He was a Panch on the Panchanama of seizure of knife from Suresh, at the time when Suresh was caught by police. In his examination-in-chief on affidavit, the witness has stated very categorically that except blue jean pant, there were no other clothes on the person of Suresh. Likewise, the Panchanama at Exhibit 46, which was made as a contemporaneous document, and signed by Panch Oswal recites that there were no clothes on person

signed by Panch Oswal, recites that there were no clothes on person of Suresh, except jean pant of blue colour, which was on his person. "त्याचे अंगावर कपडे नसून फक्त नेलतीस निळ्या रंगाची जीनची पट आहे". Panch Hajarimal Oswal has not been cross-examined at all on this point of evidence. The cross-examination is only in respect of seizure of knife. Oswal's evidence is completely independent one, and suffers from no infirmity whatsoever. It will have to be accepted.

59. One other Panch, named Bhau Malusary at Exhibit 53 is also on the point. He is a Panch on inquest Panchanama, as well as the Panchanama of the spot (i.e. the lock-up), when dead body was seen there. The Panchanama of the spot at Exhibit 55 shows that one jean pant was lying near the naked dead body of deceased Suresh, and the

same was of blue colour, and seized. In examination-in-chief, the witness has sworn to seizure of such old blue jean pant from near the naked dead body of Suresh. This finding of blue jean pant near the dead body certainly goes to corroborate the version of all other persons.

60. It is true that none of the witnesses on behalf of the non-supporters have stated that jean pant before the commission was of Suresh. However, this is unsustainable in view of their interest in Suresh. If really Suresh was wearing any other clothes, then someone from the non-supporters ought to have given exact description of those clothes. Further more, as found out already, in fact, none of these witnesses were present when Suresh was taken away by police. Therefore, their evidence carries little value regarding what was the clothing on the person of Suresh when police took him away.

61. All this discussion and in particular the evidence of Hajarimal Oswal—the Panch, as well as the Panch Malusare, apart from the police officers mentioned above, coupled with evidence of the three persons in the lock-up, proves that Suresh was wearing only a jean pant of blue colour, and there was no other clothing on his person, when police caught him and reached him to police lock-up.

#### **Was the arrest and confinement of Suresh in lock-up justified :**

62. It is argued that the arrest of Suresh, and his subsequent confinement in the lock-up was not at all justified. This is contended on behalf of the non-supporters by saying that Suresh had not committed any offence whatsoever. It is argued that there are circumstances to show that Suresh was caught with some ulterior object, for no reason. The major ground on which this argument is made on behalf of the non-supporters is that there is discrepancy in the evidence of police officers as regards the cause, for which Suresh was arrested. If we have a quick glance at the evidence, it will be found that Suresh was arrested on road in front of Deepak Dresses. Thus he was arrested in a public place. I have already held that there was a prohibitory order issued under Section 37 of the Bombay Police Act, in force on 11th March 1987. It is further proved that Suresh was behaving disorderly by crying filthy words, and challenging persons. Lastly, Suresh was holding a knife. This was in direct contravention of the prohibitory order issued by the Police Commissioner, Pune. It is not out of place to mention that Suresh was in drunk condition. Though this has not been stated in so many words by any eye-witness as such, the condition of Suresh was consistent with drunken state. Moreover, there is evidence coming from the non-supporters' side itself

to show that Suresh was addicted to drinking. Witness Nasir at Exhibit 101 on behalf of the non-supporters, has stated in para 6 of his evidence before Commission that Bhurya was addicted to drinking daily. Similarly, Ismail Shaikh (witness No. 3) at Exhibit 102 has stated that Suresh used to take drinks, and Suresh appeared as having consumed drink whenever the witness saw him. This is to be found in para 5 of his evidence, and most important is the statement of Sanjay Dinkar (witness No. 6) at Exhibit 105. This witness, who is younger brother of deceased Suresh, states in para 4: "My brother Suresh used to consume liquor everyday in the evening. On that day, he had consumed liquor in the morning". This is not all to have unchallengeable evidence that Suresh must have consumed liquor before he was caught by police. After his postmortem examination, the viscera was preserved, and from the report of Chemical Analyser at Exhibit 78 regarding the analysis of viscera, it is found that blood of Suresh, as well as urine collected and sent for examination, has disclosed presence of 152 mg. of ethyl alcohol per 100 ml. in blood, and 108 mg. of ethyl alcohol per 100 ml. in urine. The existence of this much percentage of alcohol in blood and urine of deceased clearly shows that at the time of his catching by police, Suresh must have been in pretty drunken state. May be that he was not drunk to the extent that he was unable to take care of self, but he was reasonably well-drunk. It must be noted that the blood and urine collection for viscera was done almost after 8 hours from his arrest, which meant that the ethyl alcohol percentage must have been toned down till then.

63. Non-supporters have contended that there is discrepancy in the police record regarding the ground on which police caught Suresh. This discrepancy arises in following way, according to learned advocate, Shri Shinde. Raghunath Hari Shinde (witness No. 14) at Exhibit 62 was in-charge of writing station diary at Vishrambag police station on 11th March 1987. A.S.I. Jadhav of Vishrambag police station was in-charge, supervision of the lock-up on the ground floor. Victim Suresh was admitted in the lock-up sometime at 1-30 p.m. or so on 11th March 1987. There is evidence that he was abusive and disorderly after being put in the lock-up. He was demanding some food for eating. A.S.I. Jadhav, who was supervising the lock-up made a report (Exhibit 63A) to Vishrambag police station at about 2-30 p.m. In this report, A.S.I. Jadhav has narrated the disorderly behaviour of Suresh Dinkar, but has mentioned that said Suresh was kept in the lock-up in connection with crime under Section 112 read with 117 of Bombay Police Act. The said report was also entered in the station diary by witness Shinde at serial No. 9 in Exhibit 63. It is argued by the learned advocated

Shri Shinde on behalf of the non-supporters that this entry will show that it was the police case that Suresh was arrested under section 112 read with 117 of Bombay Police Act. This contention of Shri Shinde is not very forceful. It is true that in the report made by A.S.I. Jadhav, it is mentioned that Suresh was brought in the lock-up for offence under section 112 read with 117. However, it may be noted that Shri Jadhav, A.S.I. himself did not know, as to what for Suresh was brought in the lock-up. It is an admitted fact in this case that Suresh was kept in the lock-up without usual procedure of obtaining an order from P.S.O. of Vishrambag police station. This state is admitted by Pandurang Jadhav, A.S.I. in his evidence at Exhibit 72. He has stated that no order of Thane Ammaldar was obtained in respect of Suresh for keeping him in the lock-up. Similarly, Thane Ammaldar, Shri Raghunath Shinde (witness No. 14) at Exhibit 62 has stated in course of cross-examination by Shri Shinde, learned advocate for non-supporters that in every case, when a person is to be kept in the lock-up of Vishrambag, the person to be kept in the lock-up is first produced before Thane Ammaldar of Vishrambag. However, Suresh *alias* Bhurya was not brought before witness Shri Shinde on that day, before keeping him in lock-up. Thus there is definite and sufficient evidence to show that Suresh was kept in lock up without Thane Ammaldar of Vishrambag police station having permitted keeping of Bhurya in the lock-up. To that extent, keeping of Bhurya *alias* Suresh in the lock-up on that day was irregular.

64. The direction in the Bombay Police Manual, Vol. No. 3, in Rule 382(2) is relevant for this purpose. The said direction says that the Guard Commander shall not receive any prisoner without a written order in each case from the officer, under whose authority the prisoner is sent ..... ". A register has to be kept by the Guard Commander, and in the said register, name of the officer or the Magistrate, who has ordered the receiving of prisoner, has to be entered, and such register is to be checked daily. As is the position in this case, no written order was obtained by the Guard Ammaldar of Faraskhana lock-up to keep Suresh in the lock-up. A.S.I. Jadhav, as well as the Guard Commander, Shri Liyakat Ali are to that extent guilty of breach of the rules.

65. However, the contention that Suresh was not arrested lawfully is not correct. The report of A.S.I. Jadhav at Exhibit 63 is obviously based on some hearsay material. The real first information report in the matter was one, which was lodged at the Khadak police station. The first information is at Exhibit 91, lodged by police constable Bhorde, who was one of the persons arresting Suresh. Said complaint clearly



recites that Suresh was arrested for breach of order under section 37 of Bombay Police Act. This complaint was duly entered in the station dairy of Khadak police station. The true copy of the station dairy is at Exhibit 93, and it shows that at entries 22 and 23, reference to the arrest of Suresh Dinkar is made, and the entries show that the arrest was for breach of prohibitory order under section 37 of the Bombay Police Act. The report (Exhibit 63-A), and the entry at Vishrambag police station at Exhibit 63 in the police station dairy in so far as offence alleged against Suresh are obviously based on hearsay. It was not made on information given by the police arresting Suresh. There is absolutely no doubt that Suresh was arrested quite lawfully for committing breach of the prohibitory order. However, as stated already, his lodging in the lock-up, without obtaining proper orders from the Thane Amaldar of Vishrambag police station, in whose jurisdiction the lock-up was situated, was objectionable. The detention, however, cannot be said to be illegal as such.

#### About injuries to Suresh .

66. Admittedly Suresh had died after he was lodged in the lock-up in Faraskhana building, after 1-30 p.m. on 11th March 1987. The post-mortem report in respect of Suresh has been made by Dr. Pherwani (witness No. 24 on behalf of police officers) at Exhibit 76. The inquest Panchanama is at Exhibit 54. Shri Malusare (witness No. 10) at Exhibit 53 is the inquest Panch. The inquest Panchanama is also relevant for purposes of finding out the injuries on person of victim Suresh, and lastly is the Panchanama (Exhibit 46) made at the time when Suresh was held by police.

67. The Panchanama (Exhibit 46) was made in presence of Panch Hajarimal Oswal (witness No. 3) at Exhibit 45. From this Panchanama, it is clear that at 13-00 hours, when police caught deceased Suresh on Maharana Pratap Road near Deepak Drésses and seized from him a knife, there were no injuries on his person. The evidence is specific on the matter. The Panchanama recites as follows :

“ त्याचे अंग तपासन पाहता त्याचे अंगावर ताज्या मारहाणीच्या निशाण्या दिसून येत नसून पोलिसांविरुद्ध मारहाणीबाबत काहीएक तक्रार नसल्याचे तो समक्ष सांगत आहे.”

(On examination of his body, no fresh marks of any ill-treatment are found, nor is there any complaint of ill-treatment against police, made by him). So this Panchanama will show that at the time of arrest, Suresh had no injuries.

68. Non-supporters' case is that Suresh was beaten and ill-treated after he was removed from the place of arrest, whichever it might be, to Subhanshah police chowky. However, there is no convincing or even *prima facie* evidence to show that any such ill-treatment was given to said Suresh till he was reached later at the police-lock-up of Faraskhana. The evidence regarding witnessing of beating at Subhanshah police chowky may be discussed in brief.

**Evidence regarding alleged ill-treatment at Subhanshah Police Chowky :**

69. Witness No. 2 Nasir Shaikh for non-supporters, at Exhibit 101 has stated that after he witnessed arrest by police of Suresh in Dhor Galli, he had gone towards Subhanshah police chowky, when police took Suresh in rickshaw to that chowky. Witness Nasir Shaikh says that at Subhanshah police chowky, he stood outside and saw that police were beating Suresh mercilessly by hand, sticks etc. He also says that Bhurya was raising cries for help quite loudly. This evidence is unacceptable on the face of it. I have already held that Nasir is not a witness to the alleged catching of Suresh by police in Dhor Galli. Suresh was not caught by police in Dhor Galli at all. Nasir, therefore, could not have followed Suresh, when police took him away. Further, there is inherent infirmity in evidence of Shaikh Nasir regarding having gone to Subhanshah police chowky. Nasir would have it that police carried away Suresh in rickshaw, and later he went to Subhanshah police chowky. But Nasir has squarely admitted that he did not know, who were those police, and there was no reason for him to presume that Suresh was taken to Subhanshah police chowky. According to Shaikh Nasir, he had gone on foot to Subhanshah police chowky alongwith one Nandu and Nitin. He admits that he did not know any of the police of Subhanshah police chowky till then. Strangely enough, he says in cross-examination that none of the persons from adjoining shops came out on hearing cries of Suresh, when he was beaten inside the chowky. Though in examination-in-chief he says that he saw beating to Suresh by sticks and kick blows, he admitted in cross-examination in para 3 that he did not know, with what weapon or by what method beating was done to Suresh in the police chowky. It was highly improbable that witness could have seen any beating done inside the chowky. It is an admitted fact that the Chowky is very poorly lit inside. Front verandah has a sloping roof. The verandah is closed by *Jali* of wood-work. The entrance door has very small height. In front of the entrance door, there was a long shed covered with tarpaulin. This is admitted by Nasir Shaikh himself in cross-examination. With such situation, it was impossible for anyone

to see, what was happening inside the police chowky. It, therefore, appears that Shaikh Nasir's evidence of having seen beating to Bhurya in police chowky is unacceptable. He was not a witness to such beating at all.

70. Ismail Shaikh (witness No. 3) at Exhibit 102 does not claim to have seen any incident at Subhanshah police chowky. His version was only regarding beating in Dhor Galli, but his presence, for reasons given already, is unacceptable.

71. Gorakhnath *alias* Nandu Pardeshi (witness No. 4) at Exhibit 103 also claims to have seen beating done to Suresh *alias* Bhurya in the police chowky. He says in course of cross-examination, in para 3 that as soon as police took Bhurya in rickshaw from Dhor Galli, he alongwith others started to go towards Subhanshah police chowky by short-cut on foot. He claims to have seen beating by standing in front of the said police chowky. According to him, he was standing on road at a spot between the tailor's shop and the tree, which is in front of the police chowky. It is admitted that there is a big platform around the tree. It is waist-high. I have already pointed out from Nasir's evidence the structure of the police chowky. The tree with platform around is in front of the shed covered with tarpaulin. It was, therefore, highly improbable that anybody could have seen any incident inside the chowky by standing beyond the tree. This witness claims to have witnessed the incident for 1 1/2 hour alongwith Nasir Shaikh and Nitin Rakshe. Nasir Shaikh has not deposed about the presence of this witness at all. This witness claims that Bhurya's brother Sanjay had also accompanied him to see the incident of beating Subhanshah police chowky. It is pertinent to note that Sanjay (witness No. 6) at Exhibit 105 in para 4 of his evidence, says that he alone had gone to see the beating at Subhanshah police chowky, and nobody else was present near except himself. Thus presence of Gorakhnath is ruled out by Sanjay himself. This is because neither Sanjay nor Gorakhnath, much less Nasir had seen any such beating. Gorakhnath says that Sanjay saw beating by standing upon the platform around the tree. But Sanjay would have it that he saw the incident by bending down and not by standing upon the platform. Sanjay obviously improved so as to make it appear that he peeped through the low height door of entrance of the police chowky. However, I have already pointed out that Sanjay's version is unbelievable, because in his examination-in-chief itself, he says that it was at about 3 or 4 p.m. that he came to know from one Muslim boy, for the first time, about beating to Suresh. If he learnt about beating to Suresh at 3-30 p.m. for the first time, it is impossible that he could have seen any incident of beating at Subhanshah police

chowky, because admittedly, by that time, Suresh had in fact expired. At any rate, Suresh was already lodged in the lock-up at Faraskhana. Thus it would be seen that evidence of witnesses of non-supporters that they had seen actual beating to Suresh in Subhanshah Police Chowky at the hands of police attached to Khadak Police Station, and on duty at Subhanshah Police Chowky, is totally unworthy of any belief, and has to be rejected.

72. Police Head Constable Mamunkar (Witness No. 2) at Exhibit 44, Police constable Atre (PW 4) at Exhibit 47, as well as Police Constable Rupji Dhumal (PW 5) at Exhibit 48 have all denied that any ill-treatment was done to Suresh at Subhanshah Police Chowky. It is true that they are interested persons, because the non-supporters have levelled charge directly against these persons of ill-treatment. Even then, their version appears more probable. It is because Suresh was later taken to Faraskhana lock-up from Subhanshah Police Chowky, after Constable Bhorde had lodged a complaint at Khadak police station against Suresh. The Guard Commander (Guard Ammaladar) Liyakat Ali (Witness No. 13) at Exhibit 61 has, in cross examination by Shri Shinde, the learned advocate for non-supporters, stated that Suresh was handed over in his charge by the two constables of Khadak Police Station, viz. Atre and Bhorde. He further says that no person is admitted in the lock-up, if he has any injury or bleeding on his person. The very fact that Liyakat Ali, Guard Ammaladar took charge of Suresh from constables of Khadak police station, goes to show that till then Suresh had no injuries on his person. Otherwise, as stated by Liyakat Ali, Suresh would not have been accepted by the lock-up Guard Ammaladar for being admitted in the lock-up. The admission of Liyakat Ali is against his own interest to a great extent. Therefore, it has to be accepted. Thus, from all this material on record, it is abundantly clear that till Suresh was brought at Faraskhana lock-up and handed over to the Guard Ammaladar, Suresh had no injuries on his person.

**The injuries found on the person of Suresh at the time of post-mortem :**

73. Though the evidence has shown that Suresh had no injuries whatsoever on his person till he was brought to the lock-up of Faraskhana, the post-mortem report has disclosed the following external injuries :—

- (1) An area of contused abrasion, multiple lineal present on the left outer aspect shoulder, upper portion 3" × 2",
- (2) An area of multiple contused linear abrasions present on the left side of neck 4" ×  $\frac{1}{2}$ ",

- (3) An area of contused abrasions front of neck  $2'' \times \frac{1}{2}''$ ,
- (4) An area of contused abrasions—right side of right eye,  $1'' \times \frac{1}{2}''$ ,
- (5) An area of contused abrasions  $1'' \times \frac{1}{2}''$  right side shoulder, posterior aspect,
- (6) An area of contusion, right side snouaer, posterior aspect, upper portion  $4'' \times 3''$ ,
- (7) An area of contusion, present on the left side back  $2'' \times 1''$ ,
- (8) An area of contusion, back of right arm  $1\frac{1}{2}'' \times 1''$ ,
- (9) An area of contusion present on the left side, back lower portion  $2'' \times 1''$ ,
- (10) An area of multiple contusions, present on the back sacral aspect, each contusion about  $2'' \times 1''$ , and 10 contusions in all.

The post-mortem report is at Exhibit 77. The post-mortem was performed by Dr. Pherwani, who was then working as a Reader in Forensic Science in B. J. Medical College, Pune. Apart from these external injuries, the post-mortem has also disclosed haematoma of posterior aspect of the chest-wall, haematoma to the abdominal wall, with fluid, stained with blood in the cavity, and laceration on the external surface of the spleen. Likewise, the inquest Panchanama (Exhibit 55), drawn up by Special Executive Magistrate, Shri Atre (Witness No. 12) at Exhibit 60, and witnessed by Pancha, Bhau Malusare (Witness No. 10) at Exhibit 53, shows mark of injury on the neck of deceased Suresh. There was saliva noticed from mouth upto the chest, colouring below the right eye, and lacerations at various places on the left shoulder as well as left elbow, and injuries on the buttock of left side. Thus, there were injuries on the person of deceased Suresh, which were obviously caused after Suresh was handed over to the in-charge of Faraskhana lock-up. This conclusion is inevitable from the material, which has come before the Commission. The crucial question, however, is as to how these injuries, and the death of Suresh took place, and what was the cause of death. I think that this will be the most important point, requiring determination in the present case. At this stage, however, I shall digress a bit to other points.

**Circumstances attending admission of Shri Suresh Doiphode in the lock-up of Faraskhana :**

74. Suresh Doiphode was arrested by the police of Khadak Police Station at about 13-00 hours. This is already established by evidence discussed at appropriate stage. Suresh was brought and admitted at

the Faraskhana lock-up sometime around 1-30 p.m. or so on that day. This time of arrival of Suresh for admission in the lock-up is very material, as will be discussed elsewhere hereafter. This evidence regarding time of admission of Suresh may, therefore, be discussed.

**Evidence of Head Constable Mamunkar on the point :**

75. Witness No. 2 (Exhibit 44), Head Constable Mamunkar says that after bringing Suresh at the Subhanshah police chowky from the place of arrest, a complaint was prepared by constable Bhorde. The same was sent to Khadak Police Station, and after return of the Constable, who lodged the complaint to Subhanshah Police Chowky, Suresh was taken to the Faraskhana police lock-up. According to Mamunkar, this was at 2-30 or 2-45 p.m. It will be seen from other evidence that on this point, Mamunkar is either stating untruth or is making confusion. Head Constable Mamunkar was probably stating this in order to show that F.I.R. was lodged at Khadak Police Station to register an offence against Suresh, before Suresh was forwarded to the lock-up. There are circumstances to show that the F.I.R. was not registered at Khadak Police Station till admission of Suresh in the lock-up. I will presently show, how Mamunkar's evidence on this point is not truthrul.

**Other evidence regarding admission of Suresh in the Faraskhana lock-up :**

76. Constable Atre (Witness No. 4) at Exhibit 47 has stated that on reaching Subhanshah Police Chowky, a complaint was prepared, and Suresh was immediately sent to the Faraskhana Police Station. He says that he and constable Bhorde took Suresh to Faraskhana lock-up. After reaching at Faraskhana lock-up, and on making entry at the register, he immediately returned back to police station. This will show the falsity of Mamunkar's evidence that it was at about 2-30 or 2-45 p.m. that Suresh was sent to Faraskhana lock-up, after return of constable Dhumal from Khadak Police Station upon registering of offence against Suresh.

77. Rupji Dhumal (Witness No. 5) at Exhibit 48 has stated simply that Atre and Bhorde, constables took Suresh to Faraskhana lock-up from Subhanshah Police Chowky. He also does not say that Suresh was removed from Subhanshah Police Chowky, after complaint was registered at Khadak police station.

78. The most important evidence about the point of time when Suresh was admitted at Faraskhana lock-up is of A.S.I., Pandurang Jadhav (witness No. 21) at Exhibit 72, coupled with Guard Ammaladar

of Faraskhana lock-up, Liyakat Ali (witness No. 13) at Exhibit 61. Of course, there is other evidence, which also shall be discussed.

79. Witness Liyakat Ali has stated in his examination-in-chief in the affidavit that it was at about 13-50 hours or so that constables Atre and Bhorde had brought Suresh at the lock-up. A.S.I. Pandurang Jadhav (witness No. 21) at Exhibit 72 has also deposed that it was at about 13-50 hours that constables Atre and Bhorde had brought Suresh Doiphode. This evidence is fully confirmed by the record maintained at the lock-up in due course of business. One *Awak-Jawak* register is maintained at the lock-up by Shri Jadhav, who is in-charge of supervision of the said lock-up. According to Shri Jadhav, in the *Awak-Jawak* register, entries are made regarding persons admitted in the lock-up and persons taken out from the lock-up. The entries show the time of entry or time of exit, the police station from which the accused is brought and the total number of persons inside upon exit or entry of the particular person. It is signed by the person who brings the prisoner in the lock-up, or who takes out the prisoner from the lock-up. The said *Awak-Jawak* register was produced before the Commission, and the zerox copy of the relevant entry is at Exhibit 73. In this register, Suresh Dinkar Doiphode is shown to have been admitted in the lock up at 13-50 hours on 11th March 1987. After his entry, the total number of inmates of the lock-up at that particular moment was 14. The names of Atre and Bhorde, constables are shown as the persons who had escorted Suresh upto the lock-up. This entry in the register is the most important piece of evidence to show that Suresh was admitted in the lock-up at 13-50 hours on 11th March 1987. Nobody has challenged this time of admission of Suresh in the lock-up.

80. Apart from the above-referred evidence, we have the evidence of three inmates of the lock-up, viz. witness No. 7 (Exhibit 50) Sonam Temsing, witness No. 8 (Exhibit 51) Hari Chandane and witness No. 9 (Exhibit 52) Dattu Chandane, which shows that it was around 13 45 hours or so that Suresh was brought in the lock-up. This time is also not disputed by anybody.

81. Likewise, constable Chavan (witness No. 15) at Exhibit 64, constables Sangle (witness No 16.) at Exhibit 65. Lady constable Kumudini Asawale (witness No. 18) at Exhibit 69, lady constable Prafulla Gaikwad (witness No. 19) at Exhibit 70 and Head Constable Amir Patel (witness No. 20) at Exhibit 71, as also witness No. 23, constable J. A. Patil (Exhibit 75) were all doing duty as guards either at the male lock-up or the adjoining female lock-up. All of them have stated

consistently that it was at 13-50 hours that Suresh was brought for being admitted in the lock-up. Head Constable Shinde, who was the Station Officer-in-charge of Station Diary of Vishrambag Police Station, and examined as Witness No. 14 at Exhibit 62, has stated that at about 14-30 hours, A.S.I. Jadhav had sent a report about the behaviour of Suresh in lock-up. The said report is recorded in station diary at Exhibit 63 at Serial No. 9. This report shows that it was at 13-50 hours that Khadak police had brought Suresh in the Faraskhana lock-up. Similarly, Witness No. 25, Police Constable Rajaram Malwadkar of Vishrantwadi Police Station, says that he had come at Faraskhana lock-up to take away one of the prisoners, named Sindhubai from the lock-up to Court, at about 14-00 hours. He saw Suresh in the lock-up. Rajaram's presence is confirmed in the *Awak-Jawak* register. Thus there is positive and unimpeachable evidence contained in the record also, showing that it was at 13-50 hours that Suresh was brought at the Faraskhana lock-up.

82. Khadak Police Station has registered crime against Suresh at 14-35 hours. This is proved from the extract of Police Station Diary at Exhibit 93. Entry No. 22, made at 14-35 hours shows that offence was registered against Suresh at that time under Section 37 read with 135 of the Bombay Police Act, and the crime was numbered as 163/1987. The evidence of Head Constable Mamulkar (Witness No. 2) that Suresh was sent towards Faraskhana lock-up after F.I.R. was sent and registered at Khadak Police Station cannot be true, in the circumstances. The police record itself falsifies this contention.

83. It is quite evident and manifest from the abovementioned evidence that Suresh was admitted in the lock-up without any offence having been registered against him till then at the concerned police station, i.e. Khadak Police Station. It appears that the offence was registered at Khadak Police Station only after Suresh was admitted in the lock-up. Though complaint was prepared at Subhanshah police chowky, the constable first must have reached Suresh at the lock-up and then might have proceeded to Khadak Police Station together with his complaint for registering. This is the only probable inference in the circumstances of the case.

84. It can thus be seen that not only there was no order obtained from the P.S.O. of Vishramabag Police Station for admitting Suresh in the lock-up of that building before Suresh was taken inside the lock-up, but also there was no offence registered till then at Khadak Police Station against Suresh. It was only because no offence was registered



till then against Suresh, that constables Atre and Bhorde had probably no grudge to obtain an order from the P.S.O. of Vishrambag Police station regarding Suresh's admission in the lock-up. It can be concluded that A.S.I. Pandurang Jadhav (Witness No. 21) and the Guard Ammaladar Liyakat Ali (Witness No. 31) who was in-charge of the guard duty of male lock-up, have shown high degree of irresponsibility by allowing Suresh to be admitted in the lock-up at 13-00 hours.

**Events that took place after Suresh was admitted in the Faraskhana lock-up :**

85. From the point of time of admission of Suresh in the lock-up, the events that took place may now be seen. Head Constable Liyakat Ali, the Guard Commander of the male lock-up (Witness No. 13) at Exhibit 61, after stating that constables Atre and Bhorde reached Suresh at the lock-up, has stated in course of cross-examination in para 2 that there was no necessity of application of force when Suresh was handed over to him. However, when the entry in the *Awak-Jawak* register was made, Suresh became abusive, and he rushed towards constables Atre and Bhorde, who had brought him. Liyakat Ali further says that those two constables left after entry was made by A.S.I., Jadhav. He next says that with the help of two or three constables on guard duty, he pushed Suresh inside the lock-up, as Suresh was not co-operative. After being pushed inside the lock-up Suresh continued to make noise and abuses, and threatened that he would pound his head against the bars of the lock-up. Suresh then started shouting for *Wada-Chapati* (eatables). Liyakat Ali says that he assured Suresh that *Wada-Chapati* would be provided after procedure of sending 15 persons, taken out from the lock-up for production before the Court, was completed. In the examination-in-chief, in his affidavit, this witness has stated that Suresh was not co-operative to enter inside the lock-up. Suresh was well built, and therefore, this witness, alongwith guard constables Kalshetti, Chavan and Atre pushed him in front of cell No. 1 in the lock-up, in spite of his forcible opposition. He also stated that after being put in the lock-up Suresh continued to strike against the entrance door.

86. That Suresh had become abusive, and was forcibly pushed inside the lock-up, is borne out by the report, which was sent by A.S.I. Jadhav, who was in-charge of supervision of the lock-up. This is disclosed in report (Exhibit 63A), made by Shri Jadhav to P.S.O., Vishrambag Police Station. Entry of this report is taken in Police Station Diary at Serial No. 9 in Exhibit 63.

87. Narayan Chavan (Witness No. 15) at Exhibit 64 has stated in his examination-in-chief by affidavit that he alongwith Police Head Constable Liyakat Ali and Constable Kalshetti had forcibly pushed Suresh inside the lock-up. Suresh was not Co-operative. He was abusing, as well as disorderly as well as rowdy, and asking for *Wada-Pav*. This witness came on duty of the lock-up guard at 14-00 hours in place of Police Constable Patil (B. No. 805).

88. Police Constable Patil (B. No. 805) is Witness No. 23 at Exhibit 75. He confirms that constable Chavan (Witness No. 15) took over from him as guard outside the lock-up from 14-00 hours. Constable Patil says that Suresh was pushed inside the lock-up forcibly in spite of his opposition by Head Constable Sayed, constable Kalshetti and constable Chavan. Suresh was striking himself against entrance door of the lock-up, which is a collapsable door, as seen at the time of spot inspection by Commission. Constable Patil has stated that Suresh had given one fistblow to Constable Kalshetti at the time when Suresh was forcibly pushed inside the lock-up. Police Head Constable Amir Bakshu Patel (Witness No. 20) at Exhibit 71, who was also on guard duty for the female lock-up, has deposed in examination-in-chief that it was Head Constable Liyakat Ali with other guards, who had pushed said Suresh in the lock-up. Lady Constable Kumudini Aswale (Witness No. 18) at Exhibit 69 has deposed about the behaviour of Suresh while he was being pushed in the lock-up by the police guards. She says that Suresh was opposing the police and was loudly shouting that he would commit suicide, and make all the police work for it if he was not given *Wada-Pav*. It will thus be seen from evidence of all these police officers that Suresh was opposing and unwilling his admission in the lock-up. He was using some force to oppose the police, who were pushing him inside. In fact, constable Patil (Witness No. 23) had stated that Suresh went to the extent of giving one blow to constable Kalshetti. In this background of the evidence, it can be inferred very reasonably that the police on duty at the lock-up, and trying to push Suresh inside the lock-up, must have got angry and annoyed with said Suresh.

89. When there is set of three witnesses, who were inmates of the lock-up already since before the admission of Suresh in the lock-up. These three witnesses are: Witness No. 7 Sonam Temsing, Witness No. 8 Hari Chandane and Witness No. 9 Dattu Chandane. As far as Hari Chandane and Dattu Chandane are concerned, they gave affidavits by way of examination-in-chief twice. In the second affidavit, given by them, it was alleged that first affidavit was signed by them at the

instance of some police, without reading the contents. However, while stating before the Commission, they admitted that the first affidavit was given by them upon understanding the contents of it, and the second affidavit was given by them because the first affidavit did not contain the full version.

90. Sonam Temsing (Witness No. 7) has simply stated that Suresh, after being admitted in the lock-up, was loudly asking for *Wada-Pav*, and though Police were telling him to wait for *Wada-Pav*, Suresh continued to shout. Sonam says in course of cross-examination that Suresh was pounding himself against the entrance door of the male lock-up after he was pushed in. Sonam Temsing is a businessman. He was arrested on alleged offence of theft at some centre on Deccan Gymkhana, where he was serving at the time. He was in the lock-up in that connection. He says that he was initially in Cell No. 1. From there, he was shifted to Cell No. 3, When he saw Suresh becoming so disorderly to remove his own jean pant and becoming naked. It was from Cell No. 3 that this witness saw the remaining behaviour of Suresh.

91. Hari Chandane and Dattu Chandane (Witnesses No. 8 and 9) have both stated in their second affidavit that Suresh was asking for *Wada-Pav* after being pushed in the lock-up and was threatening that he would strike himself against iron bars of the lock-up, if *Wada-Pav* was not given to him. It is stated by them that police on duty at the lock-up tried to pacify him, but instead of cooling down, Suresh started creating noise against the entrance door of the lock-up. They say that the police present at the guard duty thereafter gave beating to Suresh, and in fact, Suresh was once pounded against the wall of the lock-up. It was thereupon that Suresh said that he would make all the police work. In the course of cross-examination by the learned advocate for the Commission, it has come in the evidence of Hari Chandane that Suresh was hit against the wall before being pushed in the lock-up. He also says of having seen some blows being given to Suresh. Such beating lasted for about 5 minutes or so. Dattu Chandane says in course of cross-examination by learned advocate on behalf of the non-supporters, in para 4 that it was two or three police who had given kicks and fist blows to Suresh before he was pushed inside the lock-up. Shri Sawant, the Learned advocate for the police officers confronted Dattu Chandane with his previous statement, recorded by police Inspector Deulkar, wherein, he did not state about beating to Suresh, but the witness stated that Shri Deulkar did not record it, though he stated about it before him. The explanation given by Dattu cannot be dismissed. After all

P.I., Deulkar was interested in shielding the police officers. The incident had taken place within the jurisdiction of Vishrambag police station. It was not unnatural that Shri Deulkar should be interested in shielding any act of violence on the part of the police. Therefore, the explanation given by Dattu Chandane that though he had stated before Shri Deulkar about beating to Suresh, the same was not recorded, can be accepted as correct. Dattu Chandane and Hari Chandane are not shown to have any interests in particular in deceased Suresh or his family. They are residents of totally different locality.

92. As pointed out already, the police officers themselves have stated about the behaviour of Suresh being non-co-operative, and that he was opposing his being put in the lock-up. Further, he was asking for *Wada-Pav* with insistence. All this had natural effect of enraging the police, who were on duty at the lock-up at that time. In this background, the version of Dattu Chandane and Hari Chandane that three police had beaten Suresh, and that Suresh was even pounded against wall, can be believed. Unless there was such beating done to Suresh, some of the injuries found on person of Suresh cannot be explained at all.

93. It is true that from the evidence of the aforesaid witnesses, it is disclosed that Suresh had pounded his body against the bars of the lock-up. But even then, all the injuries found on the person of Suresh cannot be explained by mere pounding or even fall. In particular, injury shown at serial No. 9 in column No. 17 of the post-mortem report, and injury No. 10 as well as three internal referred to already, are not explainable on any hypothesis, except that of violence having been done to the victim Suresh. Injury No. 9 is an area of contusion present on the lower portion of the back on left side. It is difficult to envisage, how such injury can be caused by fall or pounding. Similarly, injury described at Serial No. 10 is on the back sacral aspect. There are 10 contusions in all, and each contusion was of the size of 2" x 1". It is difficult to believe that such injuries could be caused by anything except violence having been practised upon Suresh by someone.

#### Medical evidence regarding the injuries :

94. Dr. Pherwani, who performed the post-mortem examination, has stated that injuries found on body of Suresh were possible by beating. He said that all those injuries were not possible by person striking, himself against iron bars. However, in course of the inquiry regarding the death of Suresh, which was being made by police, Shri Pherwani

has stated in his opinion (Exhibit 83) that injuries found were possible, if the person had fallen down under the influence of alcohol. He had also stated in that opinion that these injuries were not possible by beating. However, Dr. Pherwani has stated in evidence that he gave these findings in hurry, and they were not 100% correct.

95. Two other medical experts have been examined before the Commission. One is Dr. Bade, who was then the Professor of Forensic Medicine. According to Dr. Bade, all injuries, except injuries No. 2 and 3 described in column No. 17 are possible due to fall, or or due to striking against object like iron bars. However, this opinion appears to be far-fetched, in view of the nature of injuries found on the person of Suresh. The haematoma to abdominal wall and to the posterior aspect of the chest-wall also go to show that there was some violence practised externally upon deceased Suresh. Mere fall or striking against iron bars would not cause these injuries.

96. Dr. Sabane who was examined on behalf of the Commission, has stated in the same terms as that of Dr. Bade regarding causing of these injuries. I, upon careful consideration of the nature of the injuries, come to the conclusion that injuries No. 9 and 10, found externally as well as the injuries to spleen and to the chest-wall and abdominal wall, were caused due to violence practised on Suresh, while he was in the police lock-up at Faraskhana building.

#### How the death of Suresh was caused ?

97. There is direct evidence, as to how Suresh met with his death. This direct evidence has to be read conjunctively with the medical evidence. The direct evidence comes from the mouth of mainly three police officers and three independent witnesses, who were inmates of the lock-up. These three police officers are : Constable Sangle (witness No. 16) at Exhibit 65, Constable Chavan (witness No. 15) at Exhibit 64 and Head Constable Liyakat Ali (witness No. 13) at Exhibit 61); while the independent witnesses are witness No. 7 (Exhibit 50). Sonam Temsing, witness No. 8 (Exhibit 51) Hari Chandane, and witness No. 9 (Exhibit 52) Dattu Chandane. The evidence of Constable Sangle (Exhibit 65) must be considered first. He was doing *Chavi-Pahara* duty. This *Chavi-Pahara* duty is duty of guarding of the cells inside the lock-up. The situation of the lock-up for male persons can be understood by referring to the map. All the cells are in one barrack, and the barrack is having one collapsible door at the entrance. There is an open passage in front of all the cells inside this barrack. All four

cells have separate doors, which can be bolted from outside, and also can be locked. In the passage in front of these cells, the guard on Chavi-Pahara duty is expected to stand. The death of Suresh admittedly took place inside the lock-up and therefore, evidence of Constable Sangle, who was on Chavi-Pahara, is very important.

98. Constable Sangle states in his examination-in-chief that Suresh was pushed inside the lock-up by the outer guards, and then he started raising loud cries. He was also violent, and pounded with his two hands against the iron bars or the rods of the lock-up. He says that he became afraid of Suresh, and therefore, he himself went bit away, and stood in front of cell No. 3. In short time, Suresh removed his pant and became totally naked, and he suddenly stood on the lower *Patti* of the door of cell No. 1 and then hung the jean pant on the upper *Patti* of that door, and by means of the two legs of the jean pant, he hung himself, and then jumped from the lower *Patti*, which is about 15" above the ground (as found in the spot inspection), and thus suspended himself. Constable Sangle thereafter called out the outer guards, and with help of Guard Commander Sayed, Suresh was taken down. Thus he states quite clearly that Suresh carried out hanging by his own act. Suresh had then fallen down on the ground and was motionless. This part of his evidence has remained unshaken in the cross-examination. Though his evidence shows utter inaction on his part, the evidence appears to be otherwise believable, in view of absence of any material in the cross-examination. In questioning done by Commission, the witness stated that Suresh was first put in cell, but as he was abusing, he was taken out from the cell. He was kept in cell No. 2 for about 5 or 10 minutes, before being taken out. I will show later that this act of witness Sangle of taking out Suresh from the cell, and allowing Suresh to remain in the passage was most extra-ordinary, and one which has contributed to the death of Suresh to a large extent. But that as it may, the fact remains that evidence of Sangle goes to show that it was Suresh, who of his own, committed the act of suspending himself. The evidence of Sangle may not, however, be acted upon immediately without corroboration, as he is a police officer, interested in safeguarding the police case.

99. The next witness from the police officers is Constable Chavan (witness No. 15) at Exhibit 64. Constable Chavan, in his examination-in-chief, says that he was on rifle-guard duty at the male lock-up at the relevant time. This duty was taken over by him from one constable Patil at 14-00 hours. This duty is done right by the side of the male lock-up, in a passage which comes from entrance door of the building. Even

this passage has one entrance door. That is a wooden entrance door, with a small aperture of glass in it for seeing the events outside. This rifle guard duty is, therefore, done right outside the male lock-up in the passage. This witness was in a position to see the events inside the lock-up, because the lock up has only iron bars to separate it from the passage. Witness Chavan says that after some disorderly behaviour by Suresh, he suddenly took out the ant from his person, became naked, and after hanging the pant on the upper *Patti* of cell No. 1 from outside, hung himself by means of the two legs of the pant. He also says that Suresh swung himself while he was so suspending. The method of hanging, practised by Suresh has been stated by the witness to be the same as one stated by constable Sangle. This witness confirms that he asked Constable Sangle to watch Suresh, when Suresh began putting the legs of the jean pant around his neck. However, Constable Sangle did nothing, except looking at Suresh.

100. Head Constable Liyakat Ali (Exhibite 61) has deposed that while he was handing over some of the inmates of the lock-up to police constables of various police stations outside the lock-up entrance passage, he heard cry of constable Sangle that Suresh was hanging himself. He being the guard Commander, it is he who is in possession of the key of the lock-up of the entrance to the lock-up. He says that he went and opened the lock, and found Suresh suspending by means of the legs of the pant, which was hung on the upper *Patti* of door of cell No. 1. Thus he also confirms the evidence given by constable Sangle and constable Chavan.

101. The evidence of these police officers is considerably strengthened by evidence of Sonam Tensing, who says almost the same story. Likewise, Hari Chandane and Dattu Chandane (witnesses Nos. 8 and 9) have stated the same version. The evidence of Hari Chandane and Dattu Chandane, in my opinion, is the most important piece of evidence on the point. I have already pointed out that both these witnesses have very courageously stated about beating done to Suresh by police in the lock-up, when Suresh was refusing to enter the lock-up. It will thus be clear that these witnesses are not under police thumb in any way. Both of them were in cell No. 3. From cell No. 3 it is quite possible to see the whole passage running upto cell No. 1. Therefore, the evidence of these two witnesses establishes that Suresh had removed his jean pant, had become naked, and by help of the legs of the said jean pant, after hanging it on the upper *Patti* of door of cell No. 1, Suresh hung himself. Neither Hari Chandane nor Dattu Chandane

have been effectively cross-examined by advocate on behalf of non-supporters to show that they have made out any imaginary case about hanging by Suresh. On the other hand, Hari Chandane has stated in cross-examination that within 5 minutes after 2.30 p.m. when the incident was completed, he was taken out from the lock-up for being produced before the Court. At that time, the jean pant was still hanging at the upper *Patti* of door of cell No. 1. Dattu Chandane, in his cross-examination, at the hands of learned advocate for non-supporters, affirmed the version of Constable Chavan that Constable Sangle, who was on Chavi-Pahara, did nothing except looking at Suresh. It was only Constable Sangle, who could have prevented Suresh by raising immediate cries, and by holding Suresh physically, when Suresh started hanging the jean pant on the upper *Patti* of door of cell No. 1. However, Constable Sangle did nothing, and showed inaction of the highest degree. This can be spelled out from the evidence of Constable Sangle himself.

102. The evidence also shows that when the jean pant around the neck of Suresh was removed, after arrival of Head Constable Liyakat Ali with the help of Constable Sangle, Suresh slipped and fell down on the ground. This is stated by Hari Chandane (witness No. 8), Sonam Temsing (witness No. 7), as well as Constable Chavan (witness No. 15) at Exhibit 64. After this fall, Suresh had become motionless, and the evidence shows that Suresh did not show any signs of life thereafter.

103. It is thus clear from the oral evidence, which in my opinion, has remained unshaken in the cross-examination, that the proximate and immediate cause of death of Suresh was his act of hanging and suspending himself by means of jean pant. The oral evidence, unless found to be unreliable, must take precedence over other evidence. Unless the other evidence is such as to totally discredit the oral evidence, the oral evidence must have primacy. It is now necessary to see, as to what is the medical evidence on the point of cause of death.

104. The injuries found on the person of Suresh, on external examination, have been already detailed. It was Dr. Pherwani, at Exhibit 76, who had performed the post-mortem examination. Dr. Pherwani did not give any opinion immediately at the time of performing the post-mortem. He had reserved his opinion, and had sent viscera for chemical analysis. The viscera examination of the Chemical Analyser showed no detectable poison, but as already discussed, the blood and urine of Suresh disclosed sufficient percentage of ethyl alcohol. This discloses consumption of liquor by Suresh. After receipt of Chemical Analyser's



report regarding examination of viscera, Dr. Pherwani gave his opinion about the cause of death. According to Dr. Pherwani, the death was due to traumatic and haemorrhagic shock due to multiple injuries, which were found on the person of victim. Thus Dr. Pherwani did not give any specific injury, as having caused the death of Suresh. From his evidence, he however, appears to be of the view that this was not a case of death by hanging, in absence of any ligature marks. According to him, ligature marks should have appeared, even if jean pant was used for hanging. When the matter was raised in the Legislative Assembly by some Members of the Assembly, the police had called the opinion of Dr. Pherwani. At that time, vide Exhibit 83, Dr. Pherwani had stated that in cases of hanging, if a body is removed immediately, and if material used for hanging is soft, the ligature marks may not appear. He also had stated that in hanging cases, signs of asphyxia may not be there, though sign of shock will remain. Further, he opined that, in some cases of hanging, signs of asphyxia are not visible at the time of post-mortem examination, and last opinion given by him was that injuries found on the person of Suresh were not possible by beating. This he has later corrected. The internal examination of the dead body of Suresh has disclosed congestion of larynx, trachea and bronchi. Both larynx were congested and oedematous.

105. Dr. Bade, who is also examined on behalf of the police officers has however, stated that the death was consistent with hanging also. though Dr. Bade had countersigned the final opinion given by Dr. Pherwani, at the time of evidence, he states that death of Suresh was not inconsistent with the case of hanging. Not only that, he and Dr. Sabne, who is the present Head of Department of Forensic Medicine in B. J. Medical College, Pune have stated that if a person is hanged and the suspension is for a short time, the ligature mark may not appear prominently. Amongst the injuries noticed externally on person of Suresh, injuries No. 2 and 3 are quite thick and long, and are linear abrasions around the neck. They are consistent with a case of hanging.

106. Dr. Pherwani has stated that jean pant is not a soft material, and therefore, if it is used for hanging oneself, prominent ligature mark should appear around the neck. Dr. Sabne, who is examined on behalf of the Commission, has stated on seeing the jean pant before the Commission that the said jean pant is a semi-soft material, and if suspension is for short time, no prominent ligature mark would appear. We have medical authority to show that it is not always that a ligature mark

must remain apparent in cases of hanging. Major Cox, in his book *Medico-Legal Court Companion*, third edition, stated at page 170 :

“ If a soft ligature is used, such as *twisted Chaddar*, then the skin is not injured, and no brown parchment like mark will result. When such a soft ligature is used, there may be little or no evidence of hanging having occurred. ”

Similarly, the same author, at page 583 has observed that ; “ When suspension is by *Chaddar*, twisted into a rope, forming thick soft mass, broad superficial impression, with little or no injury to the surface will result.”

Now, twisted *Chaddar* is not very much different from old used jean pant. Therefore, non-appearance of well-defined ligature mark, in the instant case, is not inconsistent with the oral evidence stated by various witnesses. Moreover, this is not a case where there is complete absence of signs of ligature having been used. Injuries No. 2 and 3 do show that some sort of ligature was around the neck of Suresh. Otherwise, the injuries around the neck remain unexplained.

107. Death by hanging is after all asphyxial death. Signs of asphyxia are quite present in the instant case, even from medical evidence. Three factors play part in producing death in case of hanging. They are : (1) asphyxia i.e. occlusion of air passages, (2) closure of carotid arteries; such closure interferes with cerebral supply of blood, (3) pressure on the vagus nerve, which causes cardiac inhibition. Thus, it can be said that death by hanging is not pure asphyxia but amalgam of shock and asphyxia. Major Cox, in his book referred above, states at page 619 that :

“ Medical witness is not justified in attributing death due to shock, except in absence of physical signs of any other cause of death, combined with a reliable history of some recognised extent, capable of giving rise to fatal shock. ”

He goes on to state that post-mortem appearances in death from shock are negative. The opinion that the death was due to shock, is necessarily inferential. It will thus be seen that the opinion that death was due to shock is a sort of inferential one, and shock can result even in case of hanging. Therefore, the positive ocular evidence that Suresh had hung himself does not conflict with the medical evidence, including that of Dr. Pherwani, though Dr. Pherwani wants to negative the case of hanging.

108. There are some more circumstances, which support the ocular evidence that Suresh had hung himself, resulting into death. This piece of evidence is to be found in the inquest Panchanama. This inquest Panchanama was drawn up by Special Executive Magistrate, Shri Atre (witness No. 12) at Exhibit 60 in presence of Panch witness Bhau Malusare (Exhibit 53). Bhau Malusare, in his evidence during examination-in-chief, has stated that there was saliva oozing out of the mouth of Suresh upto the chest. He has also stated emission of whitish discharge from the male organ of Suresh. Coming out of saliva from the mouth and the emission of whitish discharge from the male organ are most common features, which occur in cases of hanging. It may be noted that the inquest Panchanama has not been challenged at all, by anyone, not even by the advocate for the non-supporters.

109. The learned author, Dr. Modi, in his book Medical Jurisprudence and Toxicology, 1957 edition, has narrated some of the signs of case of hanging. These are to be found on page 149 of the said book. It is pointed out that saliva is often found running out of angle of mouth, down on the chin and chest. The author says that this is a sure sign of hanging having taken place during life, as secreting saliva, being a vital function, cannot occur after death. The author also says that in such cases of hanging, seminal fluid is sometimes present on the urethral meatus. It will thus be seen that there is strong authority to support that the signs found in the instant case were consistent with case of hanging.

110. The post-mortem report has disclosed that eyes of victim Suresh were closed, and the tongue was inside the mouth. Dr. Modi has also made remarks in respect of these symptoms. He points out on page 149 that in cases of hanging, eyes are closed and pupils are usually dilated. In the present case also, the post-mortem report shows that pupils were dilated. Another symptom stated is that tongue is drawn inside the mouth. In the present case also, the finding is that tongue was inside the mouth.

111. Some other internal appearances, which have been stated by Dr. Modi on page 150, in cases of hanging are present in the instant case, Dr. Modi opines : —

“ In a case of constriction occurring at the end of expiration, the lungs are congested and oedematous, and heart is usually empty. Brain is usually normal, but may be pale or congested according to mode of death ”.

We find in the instant case, from the post-mortem report that both the lungs were congested and oedematous (column 20 of post-mortem report). The heart found empty. The brain was found to be of normal weight, but pale. Thus, it will be seen that the symptoms found in the instant case are consistent with case of hanging. In particular, the running of saliva and the position of eyes and tongue, presence of seminal fluid etc., are all very much in keeping with case of hanging. I would, therefore, hold from all the material on record that the proximate and immediate cause of death of Suresh was the act of hanging carried out by him by means of his own jean pant.

112. Dr. Pherwani (witness No. 24) at Exhibit 76 found that the spleen of Suresh was lacerated one. In course of cross-examination by Shri Shinde, the learned advocate for non supporters, Dr. Pherwani stated that laceration of spleen is sufficient to cause death in ordinary course. Based on this opinion, it is argued on behalf of the non-supporters that the beating done to Suresh had resulted in laceration of spleen, and this, in its turn, resulted in death of Suresh. Dr. Pherwani in cross-examination by the learned advocate for the Commission, stated that spleen cannot be lacerated by mere fall. In the instant case, there is no material to show, at what point of time, the laceration of spleen took place. Though Dr. Pherwani says that laceration of spleen is not possible by mere fall, Dr. Bade as well as Dr. Sabne have opined that spleen can be lacerated by fall, particularly in cases of persons addicted to drinking. There is definite and convincing material in the present inquiry to show that Suresh was addicted to drinking, and from evidence of his brother Sanjay as well as from the viscera report, it is clear that even on 11th March 1987, he had drunk in the morning. At this juncture, it would be relevant to refer to Dr. Modi's book on Medical Jurisprudence and Toxicology, 1957 edition. On page 287 Dr. Modi has, at serial No. 3 given a case regarding rupture of spleen. Now, it can be appreciated that rupture of spleen is aggravated condition than mere, laceration of spleen. Dr. Modi points out that a Hindu male, aged 45 years, addicted to drinking and smoking, fell down unconscious and died immediately. No external mark of injury was found, but the abdominal cavity was full of blood, and the spleen was found ruptured. Dr. Modi says that this rupture was spontaneous, probably due to contraction of extra-ordinary muscles brought to head in a fall for there was no history of the deceased having received any blow or hit against any hard substance. Thus, medically it is possible that injury to spleen could be caused by fall, which results in contraction of muscles, if the victim is addicted to drinking. Furthermore, the authorities on medical

jurisprudence show that in cases of laceration of spleen, it is not that, bleeding takes place immediately. Sometimes a clot is formed and bleeding takes place later on due to the removal of clot in subsequent violence or fall. As it is not possible in the instant case to determine as to when the laceration of spleen really took place, it will be difficult to hold that said laceration must have caused by any act of violence on the part of police officers.

113. In any event, as I have that there is convincing ocular evidence, supported by circumstantial material to prove that Suresh did commit an act of self-hanging, it follows that Suresh could not have died as a result of laceration of spleen in the instant case. Whatever beating was done to Suresh was before the alleged act of hanging, and if the bleeding of the spleen due to laceration had taken place prior to hanging, then Suresh could not have carried out the act of hanging. He would have died before that. I am, therefore, of the opinion that circumstances suggest that the bleeding of the lacerated spleen had probably taken place only after the fall of Suresh from the suspension, when police tried to bring him down. I have no doubt in my mind that hanging itself was the cause of death, and not the laceration of spleen. I hold so.

#### Photographs of the dead body :

114. Witness No. 17 at Exhibit 66 is a police photographer. He swears that on 11th March 1987, he received message from Vishrambag police station at 3-30 p.m. to come at the lock-up. He went at the spot at 4 p.m., and found that inquest Panchanama was in progress. He was asked to snap photographs of the dead body. These photographs are at Exhibit 67. They are 11 in number. They are all in colour. Photograph numbering 6 at Exhibit 68 is in black and white of the said dead body. From these photographs, it is quite clear that deceased was naked and lying so on the floor of the lock-up. This supports the theory that deceased had removed his jean pant from his body. It is improbable that the jean pant or whatever wear on the lower part of the body of deceased, was removed only for snapping of the photographs. Except for the purpose for which the jean pant is stated to have been used by deceased Suresh, there was no other reason, why deceased Suresh should have removed the jean pant. Therefore, these photographs are in a way supporting the evidence that Suresh had committed act of hanging by means of jean pant. There is no suggestion to the photographer to show that the removal of jean pant was done only in order to photograph the body.

**Subsequent conduct on the part of Police Officers :**

115. From the overwhelming evidence, it is disclosed that Suresh was found motionless at about 14-35 hours or around, after his fall from the suspended ligature of jean pant. But there is absolutely no evidence to show that immediately efforts were made to inform this incident at the house of Suresh to his parents or relatives. Police Inspector Deulkar, who was in-charge of Vishrambag Police Station in his evidence at Exhibit 90, has stated that it was at 15-40 hours for the first time that he learnt about the death of Suresh in the lock-up. In spite of this message having been received by him, he did not immediately arrive at lock-up. He says that he was on *Bandobast* duty in connection with arrival of the President of India. He proceeded to Pimpri, where he was posted for Bandobast. However, on way he received message from control room to attend Vishrambag Police Station immediately in connection with the death of Suresh. Even then no message was given to the family of Suresh about that incident. The evidence of the brother of Suresh and the father of Suresh will show that it was at or about 7 p.m. that the police first came to call them. They were taken to Sasoon Hospital, where the dead body was lying after post-mortem at about 8 or 8-30 p.m. The commission is of the view that conduct on the part of the police officials of Vishrambag Police, in whose jurisdiction the death of Suresh had taken place, was rather of apathy. When the death of a citizen had taken place in the lock-up, it was the duty of the in-charge of the police station to inform the same immediately to the near relatives of victim.

## CHAPTER V

## Causes and circumstances, which led to Suresh committing suicide by hanging

116. From the evidence, which has been discussed at length in various places already, it is now clear that Suresh was arrested due to his having committed breach of the prohibitory order. This arrest was at 13.00 hours. Suresh was in drunk condition. When he was brought to the lock-up at Subhanshah police chowky, he felt hungry. The time of his being admitted to the lock-up was 13.50 hours, as is proved now. By this time, it was normally period of lunch. Added to it is the fact that Suresh had consumed liquor. Naturally he must have felt more hungry at that time. Suresh was asking for *Wada-Pav* or *Wada-Chapati*, as some say, while he was being admitted to the lock-up. This shows that he was terribly hungry. He was not supplied any eatables immediately. That is also evident from the material on record. The non-supply of eatables to Suresh was probably due to the fact that no offence was registered at Khadak police station. Unless the offence was registered, it was not possible for the persons in-charge of the lock-up to supply any eatables to the prisoners in the lock-up. As Suresh must have felt hungry and as he was beaten to some extent by the police guards on duty due to refusal to enter the lock-up, Suresh got annoyed. Suresh was loudly saying all the while that he would teach lesson to police, and would make them all work. Suresh, in act of desperation, in an attempt to try teach lesson to the police, committed the act of self-hanging. Probably he did not know at that time that the act would really result in his death. This, according to me, appears to be the causatory background, leading to the commission of suicide by Suresh.

## CHAPTER VI

**Whether any act or omission or negligence of any police officer or policeman or other person led to, caused or contributed to death of Suresh**

117. The evidence has been assessed and sieved by me already while considering the totality of events that had taken place on 11th March 1987 in connection with arrest of Suresh and his subsequent admission in the lock-up, and the date in the lock-up.

118. From the evidence, I have come to the conclusion that none of the police of Khadak police station, who had arrested Suresh, are shown to have indulged in causing any injury to Suresh, nor can it be said that their acts or omissions or negligence has any direct nexus with cause of death or contribution to the death of Suresh.

119. I have, however, held that the police at the Faraskhana lock-up by their omissions to act according to rules, have contributed to death of Suresh. In the first place, A. S. I., Jadhav (witness No. 21) at Exhibit 72 is guilty of entering the name of Suresh in the lock-up register without verifying, as to whether offence was registered against him by the police station Khadak, under whose jurisdiction the alleged offence had taken place. Shri Jadhav, who was expected to supervise the lock-up of Faraskhana, also has deposed the usual procedure of admitting Suresh in the prison without obtaining the order of Thane Ammaldar of Vishrambag police station to admit Suresh. Similarly, the Guard Commander or the Guard Ammaldar, Shri Liyakat Ali (witness No. 13) at Exhibit 61 has derelicted his duty by taking Suresh for admission in the lock-up, though he knew that there was no order passed by the Thane Ammaldar of Vishrambag police station while admitting Suresh in the lock-up.

120. The evidence has disclosed that the guards on duty, who are drawn from the police headquarter, had done beating to deceased Suresh, as he was not co-operating in entering the lock-up. This beating could not have been done by anybody else except Head Constable, Liyakat Ali (witness No. 13) at Exhibit 61 ; Constable N. M. Chavan (witness No. 15) at Exhibit 64 ; and Constable Kalshetti (B. No. 136). However, the beating was only with a view to forcè the entry of Suresh in the lock-up. These acts amounted, at the most, to ingredients of offence under Section 323, Indian Penal Code.



121. Suresh, after being pushed inside the lock-up, was unjustifiably kept out of the cell, though there were three empty cells available in the lock-up. Constable Sangle (B. No. 8), who was on *Chavi Pahara*, was primarily guilty of omitting to keep Suresh inside the cell. However, the Guard Commander, Head Constable Liyakat Ali, who is in overall charge of guarding the prisoners in the lock-up, is also responsible for not verifying, as to whether Suresh was put inside the cell properly or not.

122. Police Constable Sangle (B.No. 8) (witness No. 16) at Exhibit 65 is responsible by his negligence and omission to do anything, when Suresh removed his jean pant and carried out the act of hanging. Had Constable Sangle acted promptly and quickly, the death of Suresh could have been easily avoided. I, therefore, conclude that Constable Sangle's (B. No. 8) inaction and negligence was the direct cause or contribution in resulting the death of Suresh. I also hold that lack proper supervision by Head Constable Liyakat Ali was the secondary cause, which contributed to the ultimate suicide by Suresh. Had Head Constable Liyakat Ali supervised properly keeping of Suresh inside the cell, it was impossible for Suresh to have carried out the hanging. Inside the cell, there was no possibility of Suresh having carried out hanging, because the jean pant could not have been hung anywhere inside the cell.

## CHAPTER VII

**Adequacy and effectiveness or otherwise of the security measures  
taken by the police to guard the accused in the police lock-up  
at Faraskhana building, Pune**

123. In the instant case, I have found that the security measures taken by the police to guard the accused in the police lock-up were highly inadequate. From evidence of the Guard Ammaladar and the guards on duty, as well as from the instructions given to the persons on guard duty, which are to be found at Exhibit 95, it is quite clear that there is no rule or practice followed in the said lock-up regarding keeping of the prisoners or accused in a particular cell. In fact, there is no direction anywhere that the accused admitted in the lock-up must be kept inside a cell. If accused person is kept inside the cell, then the calamity of the type, which has resulted in the instant case, can never materialise. Inside the cell, there is no place for hanging oneself. A.S.I., Shri Jadhav, who was particularly posted by Vishrambag police station to supervise the lock-up, should have also exercised some control over the procedure of keeping the accused inside the lock-up. The Police Inspector, who is in-charge of Vishrambag Police Station, and consequently of the lock-up also, probably had not given adequate directions in respect of this aspect. Shri Deulkar, the Police Inspector of Vishrambag Police Station at that time, has deposed in answer to questions by Commission that he was visiting the lock-up every morning. He admits that cells Nos 2 and 4 were unclean and unfit for use on 11th March 1987. He says that during any of his visits, he never found any prisoner in the lock-up outside the cell. However, the very fact that in the afternoon Constable Sangle did allow Suresh to remain outside the cell in the passage of lock-up, shows that the police on guard duty were not afraid to keep prisoner Suresh in the passage. This could happen only when there was no sufficient awe of the supervisory machinery.

124. Similarly, the practice of admitting prisoner inside the lock-up only after obtaining the order of Thane Ammaladar of Vishrambag was disregarded in case of Suresh only because there was no sufficient supervisory control. Had surprise checks been carried out at various hours of the day by the supervisory machinery, then perhaps the staff on guard duty and A.S.I., Shri Jadhav at the lock-up would not have dared to admit Suresh by disregarding the procedure. Admitting a prisoner in

the lock-up only after obtaining order of the station officer is a necessity, and must be followed.

125. The Chavi Guard on duty, Shri Sangle (police constable, B. No. 8), as per his own admission, did nothing. He says that he was doing duty for the first time as Chavi Guard. Keeping a prisoner in the passage of lock-up is highly dangerous. Such keeping of a prisoner could jeopardise the safety of the Chavi Guard himself, if the prisoner is strong in comparison to the Chavi Guard. Therefore, allowing Suresh to remain in passage was most extra-ordinary and a very serious lapse in respect of security measure. Such lapse could take place only due to ineffective control over the lock-up by the supervisory machinery.

## CHAPTER VIII

## Conclusions

126. Before the exact terms of reference are answered by me, it would be appropriate to summarise the facts found by the Commission in this inquiry.

Succiently stated, following are the conclusions :—

(1) There was a prohibitory order issued by the Police Commissioner, Pune for the area of Pune Commissionerate, which was in force from 16th February 1987 till expiry of 17th March 1987. This order was under Section 37 of the Bombay Police Act, and prohibited disorderly behaviour, and particularly carrying of weapons including a knife.

(2) Deceased Suresh was caught and arrested by police party of Khadak Police Station from Subhanshah police chowky at about 13-00 hours near Deepak Dresses on Maharana Pratap Road of Pune.

(3) Said Suresh was, at the time of arrest, wearing only one jean pant on his person, and his upper part of the body was open.

(4) Suresh was drunk, abusive, and was holding a knife in his hand, when caught by police, and had thus committed breach of the prohibitory order, which was in force. He was liable to be arrested. His arrest was not illegal. He was taken to Subhanshah Police Chowky, where complaint was written against him.

(5) Suresh was sent with constables Atre and Bhorde from Subhanshah police chowky to Faraskhana building for being kept in the lock-up.

(6) Head Constable Mamunkar, in-charge of Subhanshah police chowky erred in duty by sending Suresh to lock-up before offence was registered in Khadak police station, upon complaint drafted at Subhanshah police chowky. The evidence of Head Constable Mamunkar that Suresh was sent to the police lock-up after complaint was registered at Khadak police station, is not true.

(7) There is no evidence of any credibility to justify the allegation of beating by any police till Suresh was reached at Faraskhana building around 13-50 hours.

(8) Suresh was admitted at the lock-up of Vishrambag police station building at 13-50 hours by A.S.I., Shri Jadhav of Vishrambag police station. Police Constables Atre and Bhorde thereafter handed over Suresh to Guard Commander, Shri Liyakat Ali.

(9) Neither A.S.I. Jadhav, nor the Guard Commander, Head Constable Liyakat Ali cared to insist that order of Thane Ammaldar of Vishrambag for admitting Suresh in the lock-up should first be obtained for admitting Suresh in the lock-up.

(10) Suresh was very hungry and non-co-operative in entering the lock-up. He was forcibly pushed in the lock-up by Head Constable Liyakat Ali and Police Constables Chavan and Kalshetti, who were on guard duty. Some injuries were caused at their hands to Suresh. However, these injuries were only with a view to force his entry in the lock-up.

(11) Complaint against Suresh was actually registered at Khadak police station at about 14-35 hours. This was after about 45 minutes from the time of admission of Suresh in the lock-up in Vishrambag police station. Thus, though arrest and detention of Suresh was justified in law, due procedure for his admission in the lock-up was not followed.

(12) The hunger of Suresh was burning, and he was demanding *Wada-Pav* for eating, and as it was not supplied to him, and as he was forcibly pushed in the lock-up, Suresh became abusive and more disorderly in the lock-up.

(13) Suresh was not kept inside the cell, which was necessary for the purpose of security by Police Constable Sangle, who was on *Chavi Pahara*.

(14) Suresh, in fit of anger and hunger, became naked by removing his jean pant, and struck himself repeatedly against the bars of the lock-up. This act had caused him some of the external injuries.

(15) Suresh, in order to teach lesson to the police guards on duty, hung his jean pant on the upper *Patti* of the entrance door of cell No. 1, and then climbed up the lower *Patti* of the said door, and hung himself by means of the two legs of the jean pant, and thus committed suicide.

(16) Police Constable Sangle (B. No. 8), who was on *Chavi-Pahara*, was completely inert and lacked in courage. Police Constable Sangle did not take any steps to prevent the act of hanging by Suresh.

(17) The primary cause of death of Suresh was hanging.

(18) A.S.I., Shri Jadhav, who was supervising the lock-up, and the Guard Commandar, Shri Liyakat Ali dared to admit Suresh without complying with the normal procedure, only due to lack of supervisory control.

(19) The conduct of the Police Inspector of Vishrambag police station, after death of Suresh was known, was that of apathy. No attempt to inform the death was made to the near relatives of Suresh immediately.

(20) The death of Suresh in the lock-up could have been avoided, if the staff on the guard duty had been diligent and alert in duty. In particular, had Suresh been kept inside any of the cells, instead of being kept in open passage, death of Suresh could have been avoided.

(21) The death of Suresh could have been avoided, even if the person on *Chavi-Pahara* was a person of courage and action, as is expected from any guard doing that duty.

## CHAPTER IX

**General and specific measures and other matters germane to the subject under inquiry, required to be taken to avoid recurrence of such incidents in future**

127. From the evidence available on record, and the arguments advanced before me from all sides, I think that the following suggestions, if accepted by the Government, would avoid the recurrence of such incidents in future :

(1) A register must be maintained outside the lock-up by person supervising the lock-up, from the police station staff (i.e. in the instant case, A.S.I., Shri Jadhav) to mention as to which of the accused person admitted in the lock-up is kept in what cell.

(2) If there is any occasion to shift any prisoner from one cell to another, an entry of such shifting from one cell to other must be made in the register referred to in suggestion No. (1) above.

(3) The responsibility of giving directions to keep the accused or prisoner inside a particular cell in the lock-up should be of A.S.I. on duty. The Guard Commander should be jointly responsible for seeing that such direction is first obtained before the accused is kept inside the lock-up.

(4) In no case should be the prisoner or accused be kept outside the cell in the lock-up, once he is admitted in the lock-up. Such taking out of the cell should only be for the purpose of taking the prisoner outside the lock-up, or for purpose of visiting the sanitary block. In that case, the prisoner must be accompanied by sufficient escort.

(5) The person who is given duty as *Chavi-Guard* must be experienced person, and he should be a man of courage, action and imagination.

(6) The number of guards doing *Chavi-Guard* duty should be increased to at least two at a time at Faraskhana lock-up, in view of the fact that there are 4 cells in that lock-up.

(7) The guard, who is kept outside the entrance of the lock-up, must be kept on static duty, just at the entrance of the lock-up, from where he can see the whole lock-up inside. Such static duty must be rotated after every two hours. There should be effective supervision to see that the guard on static duty does not leave the place.

(8) If any prisoner is admitted in the lock-up without obtaining the order of Thane Ammaladar of the police station, within whose jurisdiction the lock-up is situated, then the Guard Commander should be held absolutely responsible for neglect or omission to perform duty.

(9) Surprise checks should be made by the Police Inspector of police station, within whose jurisdiction the lock-up is situated, to find out whether all prisoners in the lock-up are kept in cell, and that due procedure was followed before admitting everyone in the lock-up.

(10) As far as possible, every police station should be provided with a separate lock-up in its premises itself. The Faraskhana lock-up serves large number of police stations in Pune City. This should be avoided.

(11) The lock-up in the Faraskhana building is on the ground floor, while the police station is on the first floor. There should be some communication like alarm-bell or intercom-set from the lock-up to the police station. This would enable the persons on guard duty to contact immediately the Thane Ammaladar or the Police Inspector in case of emergency.

(12) For keeping the guard party alert at the lock-up, the party as a whole should be changed after every 24 hours at the most.

(13) In every *Awak-Jawak* register maintained outside the lock-up, additional column should be added to show, as to whether there were any injuries on the person admitted in the lock-up, when he was first admitted in the lock-up. The brief description of the injuries and total number of injuries should be recorded in that column. If any injuries are found on the person of prisoner subsequently, the responsibility of explaining such injuries must be thrown upon the Guard Commander.

128. In view of all the findings recorded by me, the terms of reference are answered in the following manner :—

(1) The circumstances leading to the detention of late Shri Suresh Dinkar Doiphode in the lock-up, and cause of his death are stated in Chapter VIII of the report collectively.

(2) The omission on the part of Police Constable Sangle (B. No. 8) to keep Shri Suresh Doiphode confined inside the cell, and his negligence to act promptly when Suresh removed his jean pant and hung it on the upper *Patti*, contributed to the death of Suresh primarily. Similarly,



the beating done by the three police on guard duty enraged Suresh, and this contributed to his act of committing suicide.

(3) The security measures taken and practised by police at Faras-khana police lock-up were neither adequate nor effective in the instant case.

(4) The measures generally and specifically required to be taken by police to avoid recurrence of such incidents in future, have been stated in Chapter IX of this report.

129. Though the terms of reference do not permit me in so many words to suggest measures to alleviate the grief that has fallen on the family of Suresh, I would suggest that if approved by the Government, in all cases of police custody death, where the death is result of some negligence or direct act on the part of police, the dependents of such deceased should be compensated. I think that any Government in democratic set-up, as a token of the welfare measure, should compensate the dependents of victim reasonably in such type of cases. If this suggestion is approved, I think that an amount of Rs. 10,000 in all (Rupees ten thousand) may be paid to the widow, children and the old parents of deceased Suresh in the instant case. If payment in lump sum is not approved, then a monthly allowance of at least Rs. 50 per dependent may be granted for next 15 years or till the death of the dependent, whichever is earlier. This quantum of compensation is arrived at by me on basis of the approximate earning of Suresh, and the probable contribution which he was making from this earning to the family, and taking into consideration that his life-span would have normally been of about 55 years.

130. I shall be failing in my duty, if I did not acknowledge the co-operation and help offered to the Commission by the learned advocates appearing on behalf of police officers and Government officers, Shri Vijay Sawant, and on behalf of the non-supporters, Shri V. D. Shinde. Likewise, the valuable assistance given to the Commission by senior counsel, Shri Vijayrao Mohite will have to be placed on record. It would be an act of ungratitude, if I did not make mention of the work done by Shri D. S. Jamkhedkar as the Secretary of the Commission. Likewise my stenographer, Shri R. L. Girme has spared no pains in typing this Report as accurately as possible at all possible hours, and Shri N. H. Tamboli (Assistant Superintendent), Smt. A. A. Kulkarni (Sr. Clerk) and Shri D. B. Dharmik (Jr. Clerk), and both the peons have given all possible help in conducting the proceedings of the Commission.

131. Before drawing the curtain on the Report of the Commission, I feel that I should lay open thoughts of my mind in brief. It will be admitted that it is an arduous and trying task of holding the scale of justice even, as between the contending parties. The Commission has spared no pains to ensure that justice is not only done, but also appears to have been done. The function of the Commission is only to make a fair fact-finding inquiry, but circumscribed by terms of reference. To the best of my ability, I have tried to make a search of truth. I have recorded my findings only in the fear of *God Truth*, and without fear of man, and with goodwill towards all; but malice towards none. I only hope that my efforts shall be of some help.

Pune, Dated 15th February 1989.

A. S. BHATE,  
Commission of Inquiry.

## APPENDIX ' A

**Witnesses examined on behalf of the Police and Supporters.**

Serial No.	Witness No.	Names of witnesses
1	1	Shri Laxman Katayya Chintallu
2	2	Shri Shriram Gangaram Mamunkar
3	3	Shri Hajarimal <i>alias</i> Balasaheb Babutmal Oswal
4	4	Shri Vikas Purushottam Atre
5	5	Shri Rupaji Gulabrao Dhumal
6	6	Shri Anjayya Venkatswamy Rai
7	7	Shri Sonam Tasidas Temsing
8	8	Shri Hari Parashuram Chandane
9	9	Shri Dattu Parashuram Chandane
10	10	Shri Bhau Rabbhau Malusare
11	11	Dr. Laxmikant Kashinath Bade
12	12	Shri Narayan Gajanan Atre
13	13	Shri Liyakatali Noorali Sayed
14	14	Shri Raghunath Hari Shinde
15	15	Shri Narayan Laxman Chavan
16	16	Shri Balu Ramdas Sangle
17	17	Shri Vijay Gopinath Tote
18	18	Smt. Kumudini d/o Madhukar Aswale
19	19	Smt. Prafulla w/o Sudam Gaikwad
20	20	Shri Amir Bakshu Patel
21	21	Shri Pandurang Govind Jadhav
22	22	Shri Rajendra Ramdas Gholap
23	23	Shri Jaywant Amrut Patil
24	24	Dr. Lachhman Gobindram Pherwani
25	25	Shri Rajaram Balu Malwadkar
26	26	Shri Rajendra Baburao Pudale
27	27	Shri Vijay Shantilal Nafata.
28	28	Shri Avinash Narhar Deulkar.

## APPENDIX ' B '

**Witnesses examined on behalf of non-supporters of police case**

Serial No.	Witness No.	Names of witnesses
1	1	Shri Dinkar Kondiba Doiphode
2	2	Shri Nasir Shaikh Kasam
3	3	Shri Ismail Shaikh Fakir Mohamed
4	4	Shri Gorakhnath Gokuldas Pardeshi
5	5	Smt. Sakhubai Dinkar Doiphode
6	6	Shri Sanjay Dinkar Doiphode.

## APPENDIX ' C '

**Witnesses examined on behalf of Commission**

Serial No.	Witness No.	Names of witnesses
1	1	Shri Mulchand Kupaji Bhati
2	2	Shri Balasaheb Ramrao Borade
3	3	Dr. Shashikant Shivpad Sabne
4	4	Shri Bhawarlal Tulsaji Bhati
5	5	Shri Madhav Gunajirao Sanap
6	6	Shri Chandrakant Sonba Abnawe.

## APPENDIX ' D '

**List of exhibited documents, produced before the Commission**

Serial No.	Exhibit No.	Description of the documents	Page No.
1	1	Notification No. LVS-0387/68-POL-11, dated 7th July 1987	
2	2	Draft of Public Notice	
3	3	Rules framed by Commission.	
4	5	Vakalatnama of Shri V. D. Shinde, Adv. for non-supporters.	3
5	7	Application by Shri V. D. Shinde, Adv., for non-supporters.	3
6	8	Application by Shri V. D. Shinde, Adv., for nonsupporters.	3
7	9	Vakalatnama of Shri V. D. Shinde, Adv., on behalf of witnesses for non-supporters.	3
8	10	Application by Shri V. D. Shinde, Adv., on behalf of non-supporters.	3
9	32	Purshis by Shri Vijay Sawant, Adv., for police officers and supporters.	4
10	34	Affidavit of Shri Suresh Subrao Patil, witness for non-supporters.	4
11	36	Affidavit of Shri Sudhakar Narayan Parbhane, witness for police officers.	4
12	39	List of Documents filed by police officers, dated 14th October 1988	5
13	40-A	Purshis by Shri Sawant, Adv., for police officers to call for papers from S.D.M., Pune, dated 31st October 1988	5
14	40-B	List of documents filed by police officers, dated 31st October 1988	57
15	40-C	List of Files produced by S.D.M., Pune, dated 17th November 1988	59
16	43	Map of Faraskhana lock-up.	61
17	46	Panchanama dated 11th March 1987 regarding attachment of knife from deceased Suresh Doiphode.	63

Serial No.	Exhibit No.	Description of the documents	Page No.
18	54	Inquest Panchanama, dated 11th March 1987	65
19	55	Spot Panchanama, dated 11th March 1987	67
20	57	Xe-rox copy of letter, dated Nil, written by Police Inspector, Vishrambag Police Station, Pune to Head of Department, B. J. Medical College, Pune 1.	71
21	58	Letter dated 6th April 1987 bearing No. f.m.d./127/87 by Dr. Bade to P.I., Vishrambag Police Station, Pune (Xe-rox copy).	73
22	59	Report of Chemical Analyser dated 6th April 1987 bearing No. P-T/5786-87/87.	75
23	61-A	Xe-rox copy of charge report, dated 10th March 1987 handed over to the Guard Ammaladar of Faraskhana lock-up.	77
24	63	True Xe-rox copy of Station Diary of Vishrambag Police Station, dated 11th March 1987.	79
25	63-A	Report of A.S.I. Shri Jadhav of Vishrambag Police Station to P.I., Vishrambag Police Station, Pune.	89
26	67/1 to 67/11	11 coloured photographs of the dead body of deceased Suresh Doiphode, alongwith their negatives.	91 to 113
27	68/1 to 68/6	8 Black and White photographs of deceased Suresh's dead body alongwith their negatives.	115 to 127
28	73	True Xe-rox copy of lock-up register of Faraskhana (relevant page of 11st March 1987).	129
29	77	Post-mortem Examination Notes by Dr. Pherwani in respect of dead body of Suresh Doiphode.	137
30	78	Chemical Analyser's Report dated 6th April 1987 regarding viscera examination of deceased Suresh Doiphode.	139
31	79	Letter dated 11th March 1987 written by P.I., Vishrambag Police Station to Dean Sasoon Hospital, Pune.	141
32	80	Letter dated 17th March 1987 (carbon copy) by Dr. Pherwani to P.I. Vishrambag Police Station, Pune.	143
33	81	Letter dated 26th March 1987 bearing No. 1405/87 by P.I., Vishrambag Police Station to Dean Sasoon Hospital, Pune.	145

Serial No.	Exhibit No.	Description of the document	Page No.
34	82	Carbon copy of letter bearing No. 1585/87, dated 7th April 1987 by P.I. Vishrambag Police Station to Medical Officer, Sasoon Hospital, Pune.	147
35	83	Letter dated 8th April 1987 bearing No. FMD/129/87 by Dr. Pherwani to P. I. Vishrambag Police Station, Pune.	149
36	86	Letter dated 3rd April 1987 bearing No. M/K/1780/87, by Director of Forensic Laboratory, Pune to C.A., Pune.	151
37	88	Order dated 16th March 1987 issued by District Magistrate, Pune appointing S.D.M. Shri Nahata for carrying out Magisterial inquiry.	153
38	89	Letter dated 28th March 1987 written by Shri Chandrakant Abnawe to S.D.M., Pune.	155
39	91	F.I.R. dated 11th March 1987 by A. M. Bhorde, Police Constable (B. No. 3874).	163
40	A	Letter dated 12th March 1987 signed by some citizens of Dhor Ali, addressed to Collector and District Magistrate, Pune.	165
41	92	Notes of site-inspection carried out by Commission along-with counsels for parties, dated 17th December 1988.	167
42	92-A	Letter dated 31st March 1987 addressed by P.I., Vishrambag Police Station to SDM, Haveli, Pune.	173
43	B	Copy of extract of property register of Khadak Police Station, Pune.	175
44	93	Copy of station diary of Khadak Police Station dated 11th March 1987 (page No. 10).	177
45	94	True xerox copy of property register of Khadak Police Station, Pune dated 11th March 1987 (relevant entry No. 39).	181
46	95	True copy of instructions issued to officers on guard duty at Faraskhana lock-up.	183
47	96	Report dated 11th March 1987 by P.I., Vishrambag Police Station to P.S.O. Vishrambag.	185

Serial No.	Exhibit No.	Description of the document	Page No.
48	97	True copy of register of convictions against Suresh Doiphode (relevant copy) produced by P. I., Vishrambag.	187
49	98	True copy of order dated 16th February 1987 passed by Commissioner of Police under Sec. 37(I) B.P. Act.	191
50	98-A	Application dated 19th December 1988 by Counsel for Commission.	193
51	99	Pursis dated 19th December 1988 by Shri Vijay Sawant, Sawant, Adv. for Police Officers.	195
52	106	Purshis dated 20th December 1988 by Shri V. D. Shinde, Adv. for non-supporters.	197
53	109	Letter dated 16th March 1987 written by President, Amar Hind Tarun Mandal, Pune 2 addressed to Commissioner of Police, Pune.	199
54	111-A	Application dated 21st December 1988 by Counsel for Commission.	201
55	115	Letter dated 12th March 1987 written by President, Maharashtra Pradesh Yuvak Charkmakar Sanghatana, Hadapsar, Pune 28.	203
56	116	Issue of daily Kesari dated 14th March 1987.	213
57	117	Issue of daily Kesari dated 16th March 1987	215
58	118	Application by Counsel for Police Officers.	217

### APPENDIX ' E '

#### List of property articles produced before Commission

Article No.	Description.
1	A knife
2	A blue coloured jean pant.



## APPENDIX ' F '

## List of unexhibited documents produced before the Commission

Serial No.	Description	Page No.	
		Fro	To
1	File No. 1 produced by Shri V. S. Nahata, S.D.M., Pune regarding the Magisterial Inquiry conducted by him.	1	105
2	File No. 2 produced by Shri V. S. Nahata, S.D.M., Pune regarding the Magisterial Inquiry conducted by him.	1	77
3	File No. 3 produced by Shri V. S. Nahata, S.D.M., Pune, regarding the Magisterial Inquiry conducted by him.	1	119
4	File of police papers in original, produced by police officers and supporters.	1	191
5	File of Miscellaneous papers before the Commission	1	151