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# INDIAN VILLAGE CRIMES



*By the same Author*

THE AGRA DOUBLE MURDER

# Indian Village Crimes

WITH AN

INTRODUCTION

ON

POLICE INVESTIGATION AND CONFESSIONS

*by*

SIR CECIL WALSH

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## INTRODUCTION



## Introduction

THE records of crime in India present peculiar features unfamiliar, and almost unknown, to the criminal courts in England. The cases collected in this volume, with certain exceptions, have been chosen as types and illustrations rather than as eccentricities and abnormalities. The crimes with which they deal were committed in the United Provinces of Agra and Oudh, though I am not sure about the origin of 'The Deaf and Dumb Corroborator' related in Chapter III., which is written from recollection of a case I read years ago. But it is founded on fact. The majority were heard on appeal by Benches of which I was a member, in the High Court of Allahabad. In some of them fictitious names have been used, though not in 'The Police Pantomime', in Chapter XIII., which occurred in 1909, before I went to India. But all of them, except 'The Deaf and Dumb Corroborator', are compiled from official records.

It has been said by a writer of high authority that if one looks at the criminal statistics of northern India it will appear that there is less crime than in England. But I doubt very much whether the inference is a correct one. The United Provinces once had the largest population in India. It now runs a close second to Bengal. Its population exceeds that of England and Wales by about 7,500,000, amounting to something like 45,375,000, by far the greater number of whom are agriculturalists. Taking a fairly representative year in England and Wales, the number of indictable offences tried at Assizes and Quarter Sessions was 7924. Of these, 6350 resulted in convictions, while there were in addition 33,000 summary convictions in similar cases. In a representative year in the United Provinces, the number of convictions given in the official statistics for 'principal police offences' is



16,156. But the number of 'principal police offences' given as 'reported' is 59,192. The enormous difference between the number 'reported' and the number of convictions is so remarkable that it is interesting to examine their classification. It does not appear how many of those 'reported' actually formed the subject of a charge.

	Reported.	Convicted.
Murder . . . . .	992	283
Serious offences against the person . . . . .	8,148	2,805
Dacoities . . . . .	2,047	249
Theft . . . . .	35,737	6,412
Cattle theft . . . . .	4,635	1,050
Offences against the state, and public tranquillity . . . . .	1,612	783
House-breaking . . . . .	6,021	4,574

[The number of convictions in house-breaking is due to the fact that many are caught in the act]

I have ignored the smaller class of case, of which there are over 200,000 per annum. It is clear that from these statistics no just comparison can be made. But it is not worth while pursuing an attempt to compare like with like. The task is probably not humanly possible, and if it were, the result would be of small value. The number of convictions for police offences in the official figures of India appear to be based upon the number of cases tried. They do not, so far as I know, deal with the number of convictions *per capita*. This is an important factor. In England a very large proportion of crime is committed single-handed, and the average number of offenders per crime must be under two. The average number per crime in the United Provinces must be nearer ten than two, on account of the large proportion of agricultural fights and riots, village vendettas, communal riots, and dacoities, in most of which the number of offenders runs into double figures, and in many of which it is quite large.

But however this may be, and whatever play one may make with figures, any attempt to institute a numerical comparison between the two territories seems to me to be futile. For one thing, a very

large proportion of the cases of violence in northern India arise out of hot blood, ungovernable temper, and the natural inclination of the villager, who is generally miles away from any police, to take the law into his own hands and to fight out his quarrel on the spot. There is nothing like this in agricultural districts in England. The author already referred to has said that the agricultural classes are not inferior in intelligence to the English peasant. If natural acumen, rapidity of thought, and liveliness of imagination are meant, it may be so. But whether the cause be their lack of education, the narrowness of their religion, the climate, or, as I have often thought, their lack of association with men of attainments superior to their own, the fact is that they fail to use their intelligence, and upon slight provocation lose all power of reasoning and self-control. It is not much good having an equivalent of intelligence if you don't use it when it is wanted. Whether it is a question of cattle trespass, irrigation, family enmity, an old personal grudge, a sexual difficulty, or some quite trivial dispute, the average cultivator will break out at once into abuse, often of the most disgusting character, which develops rapidly into a fight, in which the relations and friends on either side will join in substantial numbers if they happen to be near. If one disputant, finding himself seriously outnumbered, a disadvantage which the villager invariably hopes to impose upon his enemy, should discreetly retire, the fight will take place later on, more or less in cold blood, when both sides are ready. It is impossible to regard these law-breakers and disturbers of the peace as criminals in the ordinary signification of that term. They are probably as honest and industrious as the average respectable citizen in a civilised centre of industry. They want speedy justice, or, what they regard as the same thing, the vindication of their own opinion. They prefer the British variety. But it takes time, and they can't wait. They are great believers in getting in the first blow, and, to tell the truth, few of them have learned anything else. And they know that they are pretty certain to get it if they don't give it.

So far as my experience in the United Provinces goes, no

magistrate or judge knows anything about the antecedents of those who are brought before him, or of their life and character, unless a previous conviction stands against someone. I have sometimes wondered whether such men ought to be punished at all, beyond being bound over to keep the peace. If three stalwart and useful cultivators happen to lose their lives in a sudden village fight, those who caused the deaths are generally guilty of murder, but it seems harsh and uneconomic to hang three more, to send another six to transportation for life, and to break up and ruin several homes. Of course, the magistracy, which enjoys a good deal of control over the police, is responsible for the peace of the district, and a magistrate who did not take the only steps open to him under the codes to punish such disorder and destruction of life would be transferred, and probably backmarked. 'Grievous hurt', which includes knocking out a tooth and involves severe, rigorous imprisonment, the equivalent of hard labour, is almost invariably inflicted. It has always seemed to me that these cases are punished with terrible severity. There is certainly no relation between the moral gravity of the offence and the punishment usually awarded, and imprisonment is absolutely no deterrent, so that severity loses much of its value. Personally, I tried to treat these cases when they came before me on appeal with leniency, and went out of my way to encourage others to do likewise. I think this principle is sound, though it has no application to deliberate brutality, which, in England, used to be treated too lightly. But the point is, as it seems to me, that the presence amongst criminal statistics of these cases of loss of self-control in sudden quarrels between illiterate people is misleading to anyone who seeks to draw an inference from figures in an attempt to form an opinion of the criminal instincts and tendencies of a community.

But on the other hand, large items must be put to the debit side of the account. The table of figures given above shows that the difference between the number of reported principal police offences and the number of convictions is very large. But if the number of convictions given in the statistics, from which these

figures are taken, is that of individuals convicted, it follows from the high average of offenders per case in India that the figure 16,156 would have to be greatly reduced, and the difference between the number of cases reported and those in which convictions occur would be much greater. But a large number of crimes are committed which are not reported at all. Female infanticide, though nothing like so prevalent as when special measures were taken to stamp it out, is still not infrequent, and many cases of infanticide of both sexes pass *sub silentio*. 'Snake-bite' and 'fever' are believed to cloak many deaths from poisoning, and from other causes, which are never heard of by the authorities. But above all, many cases of false charges—a common offence in the United Provinces, and doubtless elsewhere—of wilful perjury, and of subornation of perjury pass unpunished. Few tribunals intervene with much frequency with a view to punishing the perjury which is rife in all courts. The only English judge who did so during my period of service on the Bench so congested his court with arrears that it became a by-word in a province where the number of appeals awaiting decision in the High Court is usually in the neighbourhood of 5000. Many sessions judges took the view that if they ordered prosecutions their time would be occupied to the exclusion of other pressing cases, a view which was unlikely to discourage the practice.

But enough of statistics. As I have pointed out, no satisfactory inference can be drawn from them. The object of this collection of Indian village crimes is not merely to interest the student of criminology, and to illustrate the fascination and difficulties of police investigation and of the whole course of criminal administration in a large agricultural province, but to try to throw some light upon the life and mentality of the ordinary Indian cultivator. These are the people whom we have to govern, and whom we have governed for more than one hundred and fifty years with a measure of success which is not merely remarkable but about which it may be confidently said that it is without parallel in history and unlikely to be rivalled. These are the teeming

millions who know little, and seem to care less, about the professional politician who claims to represent them, and of whose life and character people in England know very little.

In a passage of singular eloquence and inspiration, the late Lord Haldane, in the course of an address delivered before the American Bar Association at Montreal, in 1913, developed the view that if Law in its full significance is to be appreciated, larger conceptions than those of the mere lawyer are essential, 'conceptions which come to us from the moralist and the sociologist, and without which we cannot see fully how the genesis of Law has come about'.

'The field of daily conduct', he said, 'is covered, in the case of the citizen, only to a small extent by law and legality on the one hand, and by the dictates of the individual conscience on the other. There is a more extensive system of guidance which regulates conduct and which differs from both in its character and sanction. It applies, like law, to all the members of a society alike, without distinction of persons. It resembles the morality of conscience in that it is enforced by no legal compulsion. In the English language we have no name for it. German writers have, however, marked out the system, and given it the name of "*Sittlichkeit*". . . . It is the system of habitual or customary conduct, ethical rather than legal, which embraces all those obligations of the citizen which it is "bad form" or "not the thing" to disregard. Indeed, regard for these obligations is frequently enjoined merely by the social penalty of being "cut" or looked on askance. And yet the system is so generally accepted and held in so high regard, that no one can venture to disregard it without in some way suffering at the hands of his neighbours for so doing. . . . Not only does it not pay to do' (discreditable things) 'but the decent man does not wish to do them. A feeling analogous to what arises from the dictates of his more private and individual conscience restrains him. But he is guided by no mere inward feeling as in the case of conscience. Conscience and, for that matter, law overlap parts of the sphere of social obligation of which I am speaking. A rule of conduct may, indeed, appear in more than one sphere, and may consequently have a twofold sanction. But the guide to which the citizen mostly looks is just the standard recognised by the community, a community made up mainly of those fellow-citizens whose good

opinion he respects and desires to have. He has everywhere round him an object-lesson in the conduct of decent people towards each other and towards the community to which they belong.'

The only criticism which one can venture to make of this admirable statement is that Lord Haldane was lacking in his usual precision when he said that in the English language we have no name for this system. He himself applied to it the name of the 'General Will of Society', a term which is an adequate equivalent. But most of us use the term 'Public Opinion', and by that we mean the same thing. And of this it may be said that in India it hardly exists. Those who study the stories told in this book will be able to form their own opinion of the justice of this statement, and will be able, at least, to see what is meant by it. The presence of this moral force in a large body of uneducated and illiterate cultivators, reasonably contented with their lot, is not to be expected, but that is no reason for seeking to conceal its absence. It is its absence which makes the work of police investigation so difficult and the task of criminal courts so arduous and anxious.

I once had to confirm the death sentence upon a villager who had slowly burned his wife to death with cow-dung, steeped in oil and plastered round her body, because she had been unable to account for the expenditure of five rupees made on long journeys to and from Calcutta, and during her sojourn there, which he jealously suspected she had given to her brother. The burning lasted thirty hours in all, during much of which the woman had screamed in helpless agony. There were four adult members of his family living in the house throughout this time, any one of whom could have stopped it and saved the woman's life. I thought that on their own statements I ought to order the prosecution of at least the males, but the Government-Advocate told me in court that the view of Government was that such a course would only create difficulty in obtaining evidence in other cases. As an experienced I.C.S. judge once observed to me, when religion is divorced from morality, and a man believes that all material things are illusory, you can hardly

expect him to have any strong objection to the immoral conduct of his neighbours.

A lawyer who has gained his experience in the English courts naturally finds himself, at first, in a state of some bewilderment when he comes to administer the criminal law in India. In a large measure he has to begin all over again. For example, in England, if the evidence of the principal witness for the prosecution breaks down, the case, as a rule, breaks down with him. It inevitably fails if it becomes apparent that a substantial number of prosecution witnesses are telling untruths. If one were to be guided by such circumstances in India it would be difficult to convict in many clear cases. A general who had been sitting on a court-martial once observed to a judge: 'I don't know how you ever convict anyone in this country?' 'By occasionally giving the prosecution the benefit of the doubt!' was the cynical retort. The simplest and most straightforward cases are constantly tainted with palpably untrue statements and inconsistencies. Where affirmative evidence is called for the defence, usually in support of the popular alibi, the matter is worse. In a word, the court is often driven to construct a new story for itself by piecing together what is acceptable, and to find facts establishing a case which differs fundamentally from either that of the prosecution or that of the defence. A sessions judge in India is obliged to write a judgment giving all his reasons. He is laid open to criticism of a kind which cannot be applied to the verdict of a jury. But he is able, for the same reason, to convict in a case in which a jury would almost certainly acquit.

Invention does not stop at false testimony. I asked a leading Indian lawyer what he considered to be the national sport of his country. 'Making false charges!' was the ready reply. A wily and cowardly Oriental thinks that his best chance of damaging his enemy is to bring him within the meshes of the law. To the man who will falsely accuse his neighbour the ties of blood and caste and the attractions of paltry pay prevail over the claims of justice, and he holds it no sin to give false information or to perjure himself for the defence if a caste-fellow is accused. The

Institutes of Manu contain the following rule: 'To women in order to win their love; or on a proposal of marriage; in the case of grass or fruit eaten by a cow; of wood taken for a sacrifice, or of a promise made for the preservation of a Brahman, it is no deadly sin to take a light oath'.

It is not, therefore, surprising that the unsatisfactory nature of evidence, a feature which is quite as common in civil cases as in criminal, should seem peculiar to India. It is by no means always due to a malicious desire to mislead. It may be quite impartial, and almost unconscious, as when an Indian, particularly in speaking to one in authority, will say what he thinks the tribunal, or the master, will be pleased to hear. This may be equally embarrassing. An incident from my own experience is worth recording. I was about to leave my bungalow in the Plains to join my wife in the Hills. Her *ayah*, whom she had with her, had a large household in my compound. She had complained that she had had no news for some weeks. I sent for one of the sons and asked him what news I could take to his mother about the family. He answered, '*Sab thik hai, bahut thik*' (Everything is all right; excellent). Something made me press for details. 'What is Sohan doing?' I asked, Sohan being a son in service. 'He has lost his job, and is doing nothing', was the reply. I then asked after Mohan, a little fellow who had had a bad infection of the eyes, and whom I had had treated by a doctor. The information about this boy was that he had lost his sight, and was in a very weak state of health. Finally I asked after a baby boy who had been said to be consumptive. '*Murgaya!*' (He is dead) was the reply.

A modern text writer has said that 'it is comparatively easy in India to tamper with witnesses to such an extent that their credibility will appear so doubtful that a court will be prevented from believing the truth'. A judge told me of the following, which occurred in a case he had to try. A man took a small boy out into the jungle, and, leaving him for dead, returned home with the bangles he had been wearing. The boy, however, recovered consciousness, and was able to describe and name his assailant.



The police were not satisfied with this, and put up two witnesses to say they heard the boy scream and saw the accused escaping. But they both made a bad mistake about the time, and the accused was able to call convincing evidence of his presence in Cawnpore when two apparently respectable witnesses had seen someone attacking the boy several miles away. So a really clear case was ruined by 'police padding', as it is called. Two further causes may be mentioned as leading occasionally to the same thing. Whereas it is no slur upon an investigating officer if, after arresting a man on reasonable suspicion, he should find that no *prima facie* case can be made out, and that the suspected man ought to be released, the Indian policeman seems to regard such a course as a calamity, which can only be avoided by the lesser evil of fabricating additional evidence. Secondly, the British system of justice is unfairly blamed for this state of things. Just as the bankruptcy law, which is chiefly availed of by debtors who are anxious to escape arrest for debts which they have no desire to pay, and who file their own petitions, is commonly regarded as an invention of the British to enable debtors to avoid discharging their liabilities, so the insistence of British tribunals upon strict proof of facts is regarded either as stupidity or as a fad which must be indulged. Though not a view at all generally entertained, I have often wondered whether the Indians, particularly members of the police force, are so lacking in a sense of humour as they are sometimes said to be.

But one would be very far from the truth if one were to suggest for a moment that the whole burden of fabrication, or even a large share of it, is to be laid to the charge of the police. In the stories of 'The Double-Bluff', and 'The Mystery of the Plough', told here in Chapters IV. and V. respectively, the police had nothing to do with the false evidence. There is a well-known and authentic story, which is worth repeating, of a young magistrate to whom a complicated report of cattle-trespass was made, with a view to criminal proceedings being ordered. This is generally a serious matter, and the conscientious young man, fearing grave developments, visited the village to have a view, and found to

his surprise that one side had no cattle and the other had no land. More serious still, of course, are the astounding forgeries of birth registers, deeds, and other documents, in cases involving property; but this form of crime is more a local industry, with its schools and apprentices and wholesale dealers, to be found in more populous centres amongst more educated men, and cannot be classed with village crimes.

One defect in the presentation of criminal cases, which is of interest chiefly to lawyers, is the almost invariable absence of any attempt to obtain the advice of a trained lawyer upon the evidence before the case comes into court. The counsel for the prosecution, as a rule, simply goes solemnly through the collection of witnesses sent up by the police, good, bad, and indifferent, in a weird medley, without any sort of arrangement. The evidence for the defence usually possesses the merit of simplicity, without corroborative detail, though there are exceptions to be mentioned in a moment. The average *vakil* has to conduct troublesome cases, and they are nearly always long, for small reward, and often after very small experience. He has vague notions of cross-examination, except for the purpose of so-called discrepancies, and of matters to credit. He seldom neglects to embark upon an exhaustive exercise of the art, and has to fall back upon the characters of other members of the witness's family, or the history of the various forms of litigation in which his ancestors were engaged with the family of the accused, in order to show the 'enmity' of the witness. But when he comes to the affirmative part of his case, he betrays the same belief in the efficacy of an alibi which was shown by Mr. Weller, senior, on a famous occasion. This solemn farce, for it is often little else, is indulged in so persistently that sessions judges are much tried by the constant effort of giving them patient consideration in case one of them should happen to contain something of substance. But it is not unknown for a defence of alibi to be set up in a case of a village fight, at the same time, and on behalf of the same accused, as one of self-defence, even when the latter has quite a reasonable chance of success. Some years ago, the Sessions Judge of Agra was driven to observe that

the defences of alibi which were customarily relied upon in his court had come to be grouped into three classes: the Marriage Feast; the purchase of a bullock at some distant fair; and the visit to the Medical Dispensary. The latter two were supported by documentary evidence, the date of which was the crux of the whole matter and a point of considerable doubt.

The total population of the United Provinces, which lie practically in the centre of Upper India, is about 45,375,000. They comprise something like 106,200 villages. These villages differ considerably in extent from the villages and country parishes with which we are familiar in England. They average about one square mile in area, the total area of the Provinces being about 107,000 square miles. The Provinces comprise also several large towns and centres of trade and industry, such as Allahabad, the capital, Cawnpore, Lucknow, Agra, Benares, Aligarh, Meerut, Bareilly, Saharanpur, Moradabad, Muttra, Gorakhpur, and Shahjahanpur. The population is mainly Hindu, who amount to about 85 per cent, the Mohammedans being about 14 per cent, and the total of all other religions being less than 1 per cent. There is a large sprinkling of Bengalis, especially in the towns and trade centres where a substantial proportion of them are engaged in clerical and professional pursuits. But the great mass of the population are illiterate cultivators, living in small villages. One-third of the whole number live in villages of a smaller population than 500, and of the 106,200 villages, 43,000 contain a population less than 200. The Province of Oudh, which is much smaller than that of Agra, containing only twelve districts out of the total number of forty-eight into which the United Provinces are divided, has its own Chief Court. The remaining districts are within the jurisdiction of the Allahabad High Court. The criminal jurisdiction of this court, with the exception of criminal charges against Europeans, triable with a jury, is appellate. Sessions cases against Indians, being all those which are not triable by magistrates, are tried by the Sessions Judge in the country, who is often the same individual as the District judge, or the chief civil tribunal in the district. The

District judge is assisted in the disposal of cases, which he has insufficient time to dispose of, by Assistant and Additional Sessions judges. Formerly, the majority of these cases were disposed of by Indian Civil Service judges, but latterly a very large number, if not by far the greater number, have been disposed of by Indian judges. The increase in the number of Indian Sessions judges is one of the natural consequences of what has been called 'Indianisation'. It is too early to venture upon a confident expression of opinion as to whether the change has produced an improvement, or otherwise, in the administration of the criminal law. One of its obvious defects has been that, owing to the mode of selection, many modern Sessions judges, when they first begin to try difficult cases, have had no previous experience in the handling of criminal business. One result of this has been an increase, at any rate during my experience, in the number of appeals brought by the local government against acquittals. On the other hand, there has been, also in my experience, a marked improvement on the part of the new generation in what one may call the practical treatment of cases, and less timidity and hesitation about drawing obvious inferences, and about dismissing idle technicalities which only defeat the ends of justice. There does seem, at times, to prevail amongst many of them a curious predisposition to suspect the *bona fides* of the police and of the magistracy, not only where the course of the police investigation and portions of the evidence for the prosecution provoke scepticism and doubt, but even as a general principle for judicial guidance. 'Now that the reforms have been introduced', quaintly observed an Indian Sessions judge in a judgment delivered a few years back, 'we must no longer act on mere suspicion, but only on strict proofs'. Even assuming that political changes may colour judicial utterances, the notion that they might affect the weight of evidence, or influence inferences of fact, strikes one as singular. The reader may be able to gauge, after studying the cases in this collection, how far such a view may be attributable to actual experience. With a few exceptions, limited to special towns, and a few special classes of case, in which murder and dacoity are

not included, criminal cases are decided by Sessions judges alone, without juries, though with the assistance of 'Assessors', whose opinions, though sometimes helpful, have no legal effect.

An old Persian proverb, memorised in the vernacular by alliteration, attributes crime to three sources: Land, Woman, and Gold. In the United Provinces, according to my experience, it may be classified broadly under seven heads:

1. Dacoity, or robbery with violence, often accompanied with rape, by armed bands at night, raiding helpless villagers. This crime has little general interest, except in its bearing upon confessions. It increased very much in amount and intensity when men returned to India from the war.
2. Agricultural battles, waged in hot blood, generally over disputes about irrigation, and cattle trespass.
3. Communal riots.
4. Village vendettas, usually over sexual intrigues.
5. Mysterious murders, arising out of cold-blooded conspiracies and ambushes, in which well-to-do people are often involved for various reasons, and which are extremely difficult to unravel.
6. Child murders, for the cheap jewelry which parents insist on putting on their children; or committed by hysterical mothers who, after a domestic quarrel, will jump down a well with a baby in arms, intending suicide, but more often killing the child, and saving themselves.
7. Poisoning, generally for the sake of an inheritance, or for some petty theft.

The trials of cases in court, as well as the various stages of the police investigation, are of extraordinary interest, as the reader will appreciate from the stories which follow. There are many reasons for this, as the foregoing discussion of the nature of evidence will have shown. Retracted confessions and the appearance in the box of an approver, telling only half the truth, are prominent features in many of them.

The subject of confessions, and of the methods adopted by the police for extracting statements from supposed witnesses, is so involved with the general conduct of police investigation, that the two must be considered together; and it deserves to be treated in some detail to enable the reader to appreciate some of the points which arise in the cases related in this book. The topic is one which is familiar, in these days, to all English readers, but it has many aspects which differ from those to which we are accustomed in this country. Syed Ali Hasan, in his 'Lectures on Detective Training', delivered to the Criminal Investigation Department of the United Provinces, says, 'Confession should be generally tabooed. It is a short cut to success, and all short cuts are fraught with danger. . . . A really good detective will work out his case by observation, detection, and hard labour. . . . To try to obtain confession is to admit weakness.' I find a difficulty in agreeing with this view. When there is a *sauve qui peut* amongst a gang who begin to suspect that the police are on their track, there is a sort of competition amongst them to confess, and confessions will fall into the lap of the investigating officer. But even when this is not the case, it is still an undoubted fact that an enormous amount of crime would go unpunished in India, and hundreds of desperate criminals would remain at large, if there were no confessions and no approvers. It is not too much to say that a vast majority of those serving terms of transportation, and its modern substitute, have been sent there by their relations and friends. Those who study the case of 'The Decapitated Shikâri', for example, in these pages, may ask themselves what chance there would have been of securing a conviction if it had not been for the confession of Ali Baksh, and for the evidence of the man Sohan, who was anyhow an accomplice.

While, on the one hand, few crimes in India are committed single-handed, so, on the other, a large number can only be proved by an approver. This feature of crime in India is of particular interest to English readers, because it is on this account that the whole course of investigation is so different from what we are accustomed to. The crime of dacoity, or house-breaking,

and robbery with violence by armed bands at night, who often add rape to their villainy, provides a convenient illustration of this outstanding feature, though the same considerations apply to all village crimes, either in the nature of vendettas or of vengeance arising out of passion and intrigue, which are deliberately planned. Family and caste ties, as everyone knows, are very strong. The Hindu joint family system lies at the root of their society, and explains much which is difficult to understand. Mohammedans are also bound together by family ties, which, though different in kind, are little less significant. Most village households contain a large number of the male members of the family, and, even if all are not living together under the same roof, they are often near neighbours, rooted to their ancestral village. It follows that when one of them takes definitely to crime as an occupation, or embarks on a special criminal venture, it is almost impossible for him to conceal the fact from his male relations in the same village. And he would not if he could. He may intend to use force, and he is loth to do so unless his own party is superior in number and armament to that of his intended victim. So that before he sets out upon his venture, he presses his son, or his brother, or his cousin, or his uncle, or it may be his father, into the service. But there is a further reason for this. Unless those who are living with him are involved in the crime, some of them may by some evil chance be secured as witnesses against him, by being led to say that he was absent from home at the time. Anyhow, if they can be induced to join the band of robbers or the murderous conspiracy, and it is very difficult for them to resist the pressure of family influence, their mouths will be closed. In this way it frequently occurs that several of a gang of alleged offenders are connected by close family relationship or by caste ties. It is true, however, that every such collection of criminals contains a proportion, especially among its younger members, who are not criminals at all, in the strict sense of the word, who have no real interest in the commission of the crime and no desire to take part in it. This system of linking up a number of subordinates with the main body of offenders is so common, at any rate in the

United Provinces, and probably throughout India, that it works almost automatically. It produces two important consequences. The number of the participants being much increased, the distribution of the loot is more widespread, the number of clues is multiplied, and the chances of an important discovery by the police are much enhanced. The other consequence is a sort of corollary. The moment the police get hold of a clue, and begin industriously to follow it up, the news gets abroad, and spreads with the rapidity so common in India. Those who unwillingly joined the enterprise, and who are nursing feelings of resentment for having been dragged into it, begin to bethink themselves how they may best save their own skins. Nothing is better known to the villager who, although illiterate, is shrewd enough in his own concerns than that a confession of guilt may lead to the purchase of a pardon by his becoming an approver. In many cases there is, as I have said already, a sort of race to get in first with a confession, and when this happens, the police are soon in possession of a fair number, which provide corroboration of one another and contain facts which give them valuable clues. The confessions themselves cannot be used as evidence.

I once asked an experienced judge of the I.C.S. why it was that confessions and admissions made to a police officer were not admissible in evidence in India, because a large proportion of them were unquestionably true, and it was the business of a court of justice to decide how far any fact relied upon was true or not. His answer was significant, but would not surprise anyone who has worked on the judicial side in India. 'Because if it were made admissible no case would ever be sent up by a self-respecting investigation officer which did not contain a confession'. But such confessions do serve as books of reference in the unfolding of an inquiry by an officer. I remember, soon after I arrived in India, hearing with the late Sir Sundar Lal, a great lawyer and a shrewd man, an appeal in which a Bengali seditious had been convicted of murdering a postman in Benares. He had gone to Benares for political purposes, at a time when there was a good deal of sedition simmering in that holy place.



The suggestion was that the man being under surveillance, and being an undesirable, the police had seized the opportunity of planting him in some way with this particular crime, and so getting him out of the way. The case, upon the face of it, was convincing against him. He had made an appointment with the postman in a disused house, and had strangled him and cut up his body in pieces, robbing the post-bag. When the dismembered corpse became too offensive to be any longer tolerable, he marched to the Ganges, night by night, and dropped individual portions in the river. The evidence in the main against the man was that he had purchased at one shop, cloth and sacking exactly corresponding to that in which the limbs of the postman, which were found in the river, had been wrapped; he had obtained string of exactly the same size and quality from another shop, and he had in his possession writing corresponding to that on the note making the appointment with the postman. There was other circumstantial evidence, such as his having been seen, at material times, going towards the river with a parcel of sacking; and the bad odour in the house, which he had mysteriously taken, had been noticed. Indeed, it was this which first put the police on his track. But it was quite evident to us, in reviewing the evidence on appeal, where the case was very strenuously argued, that without the facts about the sacking and the string—something like the incident of the pyjamas in the Crippen case—there would hardly have been enough to connect him with the corpse, and it was impossible not to ask oneself the question, how the police had managed to make these discoveries. Inquiries among shop-people in the bazaar are not likely to be so productive as they are in England, and the casual methods of business would make it almost impossible to trace a purchase of this kind. In any case, there was nothing about either of the articles which could give the slightest clue to the vendor of them. One was disposed to be sceptical about the identification, but my brother judge, with his great experience, was satisfied that the police had extracted a confession out of the man. Of course, there was no evidence of it, and we were bound to disregard the possibility of

such a thing. We were both convinced of the man's guilt, and confirmed the sentence, and he was duly hanged. After the execution, my curiosity got the better of me, and I asked the Government-Advocate, now that no harm could be done, and the man had paid the penalty of his crime, whether there was any truth in the suggestion that he had confessed to the police. He had. The Bengali is, notoriously, by nature lacking in moral courage, and easily made to talk. The police had undoubtedly persuaded this man that, if he would confess and give them information about some of his political associates in Benares, they would see that he was released with either a pardon or a short term of imprisonment. He fell into the trap, and wrote out in his own hand a full account of the murder which he had committed alone, giving the names of the places where he had bought the articles. He went further. In order to give the police the corroboration they wanted (though this was all nonsense, because they could not prove his confession) he had actually written out for them by heart the letter which they had in their possession making the appointment with the postman, and he gave them the piece on which he had practised before sending the original, which was the document produced at the trial as having been found on him.

Between the stage of a preliminary and inadmissible confession made to a police officer and that of the formal confession before a magistrate, which is admissible in evidence, there is a wide gulf fixed. There are instances, such as the Benares case, just dealt with, may be taken to be, when the accused has no intention of making a formal confession, and when the investigating officer knows quite well that he will not do so, and does not intend to put him up for the purpose, or to have him made an approver. This procedure of adopting an accused man as an approver at the trial is strictly a matter to be decided by the magistrate, but is, in practice, really decided by the police. The grant of a pardon is a matter for the discretion of the judge at the trial, and depends upon whether the judge is of opinion that the man has spoken the truth, or sufficiently near it to deserve the concession. But

the decision to call the man as a witness, instead of putting him on his trial, is so much one for the exercise of the discretion of the prosecuting authorities that the magistrate almost invariably, if not blindly, adopts their view. The practice of making and of taking formal confessions, and the side-issues to which it gives rise, afford some of the most interesting studies in the administration of the criminal law, and will repay the close attention of the reader. It not only provides an interest of its own, but some knowledge of it is essential to a proper appreciation of the problems which arise for solution in a difficult case.

A confession made to a police officer, as we have seen, cannot be proved, however it may have been obtained, or however voluntarily it may have been made. In this respect there is a fundamental difference between the law in India and the law in England. In England a police officer may not, or should not, interrogate a person in custody, but he may give evidence of any statements which an accused person chooses to make to him. It is proper to caution the man first, and any promise, inducement, or threat will make the statement inadmissible. Confessions are very common in India. It is known that the police adopt various methods for obtaining them, and not infrequently resort to unlawful treatment and criminal violence to an accused person in custody. If the man is not put up to repeat the confession before a magistrate, it only serves as a guide to the police for obtaining further information. If the man is put up, the law requires every possible precaution to be taken to remove him from police influence, and to enable the magistrate to satisfy himself that the confession is really the result of the man's free will. It no doubt happens that the man has been told by the police, and has reason to expect from what he has heard in the ordinary way, that he will be granted a pardon, and he may have been given to understand by the police that if he tells the magistrate before whom he makes it that there is any understanding of this sort he will spoil his chance. But this is his own look-out, and he is really giving away his confederates in a gamble for his own liberty—a pusillanimous and contemptible proceeding. It is con-

stantly said, and a number of experienced people in India seriously believe, that a large number of these formal confessions are made by innocent men, especially those extracted by improper means. I do not share this belief. The late Judge Mackarness, when he was at the Bar, carried on a vigorous campaign against the police in India for their alleged atrocities. His warm-hearted nature, and his almost fanatical belief in the extent of the evil, led him, like many propagandists, to indulge in overstatement, and to argue from the particular to the general. This was many years ago, when a Royal Commission reported strongly against some police methods. It is generally recognised that there has been great improvement in this respect since those days. But the question of unfair handling has not such an important bearing upon the question whether false confessions are widely made and acted upon as is generally supposed. It is the business of the trial court to investigate, and to scrutinise very closely, any confession which is relied upon, and the case of 'The False Confession', related in this book, shows how an untrue confession may be exposed. In the course of many years' experience, during which I heard hundreds of criminal appeals, which are in most cases conducted like a re-hearing, without the presence of the witnesses, I have seen very few confessions by men about whose guilt I felt any doubt. Confessions are often false in detail, especially in minimising the degree of participation in the crime by the confessing accused. But an elaborate and detailed confession by an innocent man is against nature, and, in my experience, rare and not difficult to discover.

It may be added that among the definite charges of ill-treatment against the police, made in court by accused persons on their trial, are those of beating and torture. The former is the one most frequently made, and, if it is made before a magistrate sitting to record a statement as already explained, or before the committing magistrate at the preliminary inquiry, immediate steps are taken by him to have the man making the charge medically examined. It is worthy of observation that many such charges are made for the first time after the man has a lawyer to represent him,

and in my time, at any rate, it very rarely happened that the charge was established. The forms of torture alleged are: beating with stinging nettles; tying a pot containing wasps to some naked part of the body; allowing water to drip slowly on to the body for hours; keeping awake all night by making hideous noises; and burning cayenne pepper, or causing it to be inhaled; while in the case of women, allegations are made of stripping naked, indecent assault, and other forms of dishonouring. In the course of my twelve years' experience, no case of torturing was established to my knowledge. But English readers should realise that 'slapping', or mild beating, intended more as a form of threat than as a means of inflicting actual punishment and suffering, is not so foreign and repellent to Indian ideas as it would be to an Englishman. Force is the one form of discipline and moral pressure which the average illiterate Indian really understands. He regards persuasion and kindly consideration, as often as not, as a sign of weakness. An Indian judge once assured me that the villagers constantly resort to 'slapping' a suspected person who declines to answer questions, or to admit his guilt, when they are satisfied that he is the culprit, and wish him brought to justice.

The Indian police are past masters in detective work amongst their own kith and kin, and are endowed with exceptional gifts of insight into the mentality of the average uneducated villager. They are without scruple, and extraordinarily clever in their methods of extracting information. To take what is probably a fairly frequent example, they will tell the man as soon as he is arrested that his only chance of escape is to make a full and candid statement. The majority of men, in such circumstances, are cowardly, and only too ready to sell their associates, if they think by doing so they can purchase immunity. When the statement has been made, the next step is simple. The accused man is told, 'But this is no good to me as it stands. I must have corroboration. No judge will act upon the statement of a guilty party, unless it is corroborated by some independent fact, and unless your evidence is made acceptable to the court how can you be given a pardon?' This absolutely correct statement of the law

may itself be corroborated by the simple method of reading to the accused extracts, perhaps embellished by the wily officer, from the printed instructions issued to the police, in which the principles on which the courts act in requiring corroboration are carefully explained. The simple-minded villager finds no difficulty in following this argument, and proceeds to give chapter and verse, describing the places in which the loot, or the weapon used for the murder, can be found. When this happens, how can one suppose the man to be innocent? No doubt, at times, a dishonest inspector, already in possession of articles which have been discovered, supplies the corroboration himself, and buries something near the scene of the crime. Here the confessing accused solemnly conducts him, and the ceremony of unearthing the corroborating material is gone through in the presence of 'search witnesses'. But this is a difficult and dangerous proceeding, and is seldom adopted except in a weak case, and the finding by the accused of property buried, without any particular point, in some out-of-the-way spot is seldom treated, when standing by itself, as weighty corroboration. An incident of this kind is always very carefully scrutinised, and the same may be said of the corroboration which one confession supplies to another, when there has been an opportunity of coaching the detail contained in the later confession. The fact is, as we have seen in the Benares case referred to above, that many an accused provides enough material to hang himself when he thinks that he is preparing for his release, and when this occurs, and an adequate volume of proof has been accumulated with the assistance of circumstantial evidence, the man is put upon his trial, and nothing is heard of the confession. It is unavailing for the defence at the trial to seek to attack the police, and to challenge a supposed confession of this kind, because it is not used as part of the case against the accused, and it is obviously a dangerous topic for the defending lawyer to introduce against himself.

When the investigating officer has obtained as many confessions as he thinks he is likely to get, and has followed them up by obtaining evidence which corroborates them, he is in a position

to decide which of the confessing accused will be of most value as an approver. But before he does this, he sends the man to the magistrate, to have the confession recorded, if the man is willing to repeat it. The magistrate usually begins operations by saying something of this sort: 'Look round, and see if any policeman is present. Have you been tutored to tell your story? Are you making your statement from fear of the police, or under the promise of obtaining a pardon? Do you understand that your statement may be used against you, and that you may be punished?' And so forth. Even after the magistrate has recorded the statement, it does not follow that the man will be made an approver. Another accused, who has confessed, may still be chosen, and the man who is not chosen is put upon his trial, and his formal confession before the magistrate is used in evidence against him, as he was warned it might be. But as a rule, if this happens, he changes his mind, and retracts his confession, explaining that there is no truth in it at all, that the inspector beat him, and that out of fear he said what he had been told to say.

It may here be observed that the section of the Code under which men are put up in this way to have their statements recorded is sometimes used unfairly, and even illegally, and some inexperienced judges seem unable to check it, though the Court of Appeal may be depended upon to do so. It may happen that a man's statement does not amount to a confession after all. But it is none the less recorded, and the admissions made by him may equally be used as evidence against him. He is invariably assisted in making it by a series of questions put to him by the magistrates. So that, in effect, this use corresponds to what is known as the 'Interrogation' in France of an accused person by the *juge d'instruction*. The section may be lawfully used for recording a statement by a man who is subsequently called as a witness, and in this way it is a valuable check upon him. It follows that the dividing line between the legitimate and the illegitimate use of the section is often a thin one. But a person who is put upon his trial after having made such a statement, not amounting to a confession, has this protection, that the judge ought not to

allow it to be used as affirmative evidence against him. All this is rather technical, but it is not without its bearing upon some of the cases related in this book. It will have made it apparent, moreover, through the shrewd handling by experienced police officers on the one hand, and, on the other, the tendency of accused or suspected persons to let their tongues wag, how intensely interesting the unravelling of the tangled skeins of evidence in criminal cases in India often is.

A good deal of difficulty in the trial of cases, and occasionally unfairness towards accused persons, would be removed in criminal cases in India if the law were brought into harmony with the law in England and accused persons were allowed to give evidence on their own behalf. The question of the desirability, or otherwise, of this change has been present to my mind throughout my judicial experience in India, and I have watched it carefully in every class of case with which I have been concerned. It is true that my experience was wholly in appellate work, but every class of case comes up in appeal, and an appeal is brought in the vast majority. The strength of my conviction on the subject has steadily grown, and I am satisfied that it is the most pressing reform needed to-day in the criminal law in India. Not very long ago an English bishop in Burma and an English High Court judge in India were almost contemporaneously defendants to charges of alleged assault. In the former case, the bishop was committed to Sessions, though the case on the face of it appeared to be improbable. It seemed incongruous that neither of them could give evidence on oath on his own behalf. But this incident was exceptional, and does not in itself provide conclusive reasons. This is not the place to discuss the question in all its bearings. One or two observations may be made. There is no demand for it, because the public do not understand it, and there would be no one to voice their views if they did. The legal profession seems to be against it, though on what ground affecting the public interest, or the interest of accused persons, I do not know. But in the present condition of public affairs in India, a reform of this kind which is resisted by the legal profession has little chance



even of obtaining a hearing. But there is, none the less, a strong body of judicial and expert opinion in favour of it. It is said that the present system which enables the tribunal to question the accused at the trial is sufficient. But this provision has very narrow limits, being confined to inviting an accused, by questions, to explain the evidence called against him. This is not always an easy thing for anyone to do, and no opportunity is afforded to counsel on either side either to develop the explanation or to support it by extracting countervailing statements, or to test it by thorough examination. It is usually of no assistance to anyone, and is often a pure farce. I have seen questions in which the accused was asked by the judge to explain four or five highly controversial facts all linked together in one interrogatory, which we used to call a 'pregnant' or 'portmanteau' question, and which it would be difficult even for an educated man closely to follow as it was put across the court to him from the Bench to the dock. One objection suggested is that the right of cross-examination would be abused by counsel for the Crown. But it is a strange notion that a Sessions judge is not equal to checking this danger, if it is a real one. Finally, it may be said that the intelligence of accused persons is not inferior to that of the average witness, and is, in fact, generally about on the same plane. It has always seemed to me that the very inadequacy of the instructions which the accused is able to give to his lawyer before the hearing, in the nature of things—they are seldom in writing, I believe, and 'proofs' are unknown—is a strong reason for thinking that an honest, innocent man could add much by dealing in the witness-box with points which have emerged during the trial.

I have said something about the severity of sentences generally given in cases of sudden quarrels and violence with serious injury. Lord Morley, when at the India Office, expressed himself rather strongly on the subject of some sentences awarded in India, and his attempts to intervene, on the ground that he could not defend them in the House, were rather resented in India. These instances probably occurred mostly in cases of sedition and so-called 'political crime', though it was said that in one case, which

was one of ordinary riot and malicious damage, he stopped the promotion of a judge of whose sentences he disapproved, and afterwards refused to see him. Opinions will always differ about sentences. To form a just estimate in each case is one of the most difficult of a judge's duties. In one respect the law in India is superior to that of England, namely, in cases of murder, by allowing the court, for reasons which must be judicial and stated in the judgment, to award the alternative of a life sentence instead of death. But, although it is not germane to the main subject of this book, it may be mentioned that the variations in India are sometimes almost beyond belief. Within a short space of time I met two outstanding illustrations. A young postman had got into debt and had yielded to the temptation of robbing the post-bag for money. He pleaded guilty. He had made good the loss by the forfeiture of a bond of guarantee, which he, or someone on his behalf, had given when he entered the employment. He had, of course, forfeited his employment and his chance of pension. He had expressed his sorrow—a rather unusual circumstance in an Indian criminal court. The experienced English judge who tried him said that it was a case for lenient treatment, and most would agree. He then sentenced the man to three years' rigorous imprisonment. It seemed to me rather unnecessary. The other case was one of a terrible assault by a villager upon his wife. She had disobeyed him, and had certainly answered him rudely—a grave offence, be it observed, in an Indian wife. He had hacked her almost to pieces with an axe. She was in hospital for months, and the doctor said that it was almost a miracle that they were able to save her life. She had been turned into a cripple and much disfigured. The accused was fined fifty rupees by a benevolent Indian judge! I sent for him and discussed the matter with him. He was a charming old gentleman who had probably never said a hard word or done a harsh thing in his life. He told me the case had given him much trouble, because the wife had behaved very badly, and he had decided that a fine of fifty rupees would be very much felt by the husband. His attitude was, no doubt, exceptional, but at the same time illuminating. The con-

duct of the husband was of a kind from which this gentle judge's whole soul must have recoiled. But I think that his whole soul also recoiled from the notion of punishing anyone with severity. He agreed with me that it was important to set some sort of standard by which younger judges and inferior magistrates might be guided. But he gave me the impression of being very much averse to setting it himself. His attitude of mind may probably be traced to the philosophy of the Hindu religion, which I have often thought to be responsible for much of that tendency which one observes in members of the legal profession in India to applaud, or to regard as imbued with a high sense of justice, any judge who acquits an accused or who punishes with exceptional leniency. This tendency, which is at times very noticeable, is probably partly responsible for that lack of public opinion of which I have already spoken.

Like the gentle judge who fined the murderous husband, some Sessions judges will adopt strange methods of avoiding difficulties which a little practical wisdom might solve. I once had to read a judgment of over seventy pages in a sessions case which had been dismissed. Someone had left a sum of a thousand rupees at a post office, to be despatched to some destination. The evidence on this point seemed to be overwhelming. The money was official money, and its deposit was proved by officials and also by a receipt. It had disappeared. The accused was a very junior clerk. From the mass of testimony, documentary and otherwise, and the complicated review in the judgment of the course of business, it was clear that the judge was satisfied that a good many clerks in the post office in question had had a nibble at the fund and had falsified books, and that the accused was a scapegoat. His book seemed clearly to have been falsified. When inquiries were set on foot, he had had an attack of fever and had gone home on sick-leave. His illness was obviously diplomatic, but his absence was seized upon for a report against him to be sent to headquarters, and for a charge to be made. It looked as though he had had some of the money, but so had most of his colleagues, many of whom were his superiors. The judge was evidently impressed with the inequality

of the whole thing. He might have convicted, passed a nominal sentence, and ordered the prosecution of some of the principal offenders. What he did was to wind up an otherwise convincing judgment by finding that the money was never deposited in the post office at all! I could have ordered a prosecution, but Government had not appealed, and they probably thought that enough time and money had already been spent upon the case. But I am afraid it must be acknowledged that the number of appeals by Government to the High Court against acquittals has increased of late years.

One word in conclusion should be said about the story of 'The Police Pantomime' told in Chapter XIII. It was a very exceptional case, and was not selected for this collection as a type. It is in the highest degree unlikely that such a case could occur to-day, or will occur again. It may not be without bearing upon the astonishing success with which up to a point the plot was worked, that the districts in which it took place, namely, Bahraich and Gonda, were before the annexation of Oudh under the heel of a tyrannical and brutal local Indian Governor, who was allowed to do what he liked, and who grievously oppressed the inhabitants. In two years his extortions and crimes had reached such a point that these districts, which had once been in a flourishing condition and noted for their fertility, had become for the most part uncultivated. Although two generations had come and gone, it is possible that this scourge had left its mark upon the population, and rendered its posterity more pliant and amenable to such petty tyrannies and blackmail as those of which the thekedar, Ishwar Nath, was guilty. When giving evidence before the Simon Commission at the end of 1928, the Inspector-General of Police for Bihar and Orissa said that 99 per cent of the constabulary, 75 per cent of the Sub-Inspectors, and 50 per cent of the Inspectors were probably corrupt, due partly to inadequate pay and partly to the standard of morality of the classes from which the police were drawn. Of this kind of misfeasance, the conduct of Ishwar Nath and of Jagannath Singh related in Chapter XIII. may be said to be typical. The corrup-

tion spoken of generally takes one of three forms: the extortion of small payments or *baksheesh* for performing an act of ordinary duty; the extortion of gifts, large or small according to the means of the individual, for not following up a charge; and the levying of blackmail by threats of false charges. As such conduct relates to the concealment of crime, and not to its investigation, except where it occurs incidentally in the course of it, no case of the kind has been included in this collection, though the trials of such charges, which are heard from time to time, contain features of much interest bearing upon the timidity and helplessness of the average cultivator.

# INDIAN VILLAGE CRIMES



# I

## THE DECAPITATED SHIKÂRI

THE sad fate of Gulzari is one of the most astounding stories in the history of crime. He was undoubtedly murdered in cold blood; but the murder was an absolutely pointless one. It was not committed for greed, or for gain; nor for punishment or vengeance; nor under sudden provocation; nor in the heat of a desperate fight. Nor was it an act of self-defence. It was simply the result of a foolish, unreasoning fear. And it illustrates in a striking manner the inherent inability of a large proportion of the population of India to face facts and to tell the truth, and, further, their utter disregard for the value of human life. Gulzari was a *banjara*, or low-caste carrier, and an experienced *shikâri*. He had at one time belonged to a select band of men employed in large numbers for big shoots, either as beaters or loaders or carriers, and he had had the honour of serving on the occasion of a big tiger shoot at which the Viceroy of India had been the guest. He had also been one of a party of beaters at a shoot arranged for the Governor of his Province. This was his last big shoot. On that occasion he had been mauled by a tiger, and his right hand had been so badly damaged that, when it healed, it remained doubled up, with the fingers bent inwards, down to the palm. After this, he retired into private life in his native village, and dwelt with his father, being chiefly occupied in grazing cattle and watching the fields. But he retained his taste for sport, and though his last adventure, with which we are concerned, was only a casual one and came to him by pure chance, it cost him his life. In his dying moments, he no doubt reflected that, though he had been spared by the tiger, he was always fated to offer up his life on the altar of his favourite pursuit.

The party of which he became a casual member was arranged by one Fakruddin. It was also in all probability, as will be seen, Fakruddin's last shoot, but of this there is no certainty. He



exchanged the rôle of the hunter for that of the hunted, and became a fugitive from justice. He had made up the party with a friend of his, one Ibrahim. All of them were Mohammedāns and *sheikhs* of some position. On Saturday, the 28th of November, Ibrahim wrote the following letter to his friend Khalil Ullah:

To

Mr. KHALIL ULLAH, Compliments—

Please come along at once with the bearer of this note, because Fakruddin has been waiting for you, and went away yesterday. He had told me to bring Khalil Ullah along with me for certain on Saturday. If you will not come, Fakruddin will always complain about it. Please come at once and we shall start at 3 o'clock, by motor. An urgent reply is required. From,

IBRAHIM.

The original party consisted of Fakruddin, Ibrahim, Khalil Ullah, Ali Ahmad, and Ali Baksh. The latter was a *teli*, or of the oil trading caste, and a servant of Fakruddin; and these two, together with Ali Ahmad, went on the Saturday to the house of one Karim, a cultivator, who lived near one of the Government forests. There they waited for Ibrahim and his friend, who arrived by car on the Sunday. Having spent the interval in exploring the neighbourhood and in shooting wild-fowl by the river, the five of them started off on Tuesday, the 1st of December, with four guns. On their way they met a sweeper, named Sohan, near his village, which was also that of Gulzari, and they engaged him to accompany them. They had a drink and a smoke, and went on to a jungle belonging to a *zemindar*, in which they had obtained permission to shoot. They were after black buck and *chital*, or small stag, and anything they could find, and carried with them some ball cartridges. They happened to pass Gulzari, who was known to Sohan, and as he was well acquainted with the country, and was an experienced *shikāri*, Fakruddin told Sohan to get hold of him and persuade him to come with them. Gulzari did not want much persuasion. He joined the party, carrying with him a *kulhari*, or axe used for breaking up ground. Fakruddin explained to Gulzari that they wanted to shoot big animals, and Gulzari said that the best sport of that kind, as was only to be expected, was to be had in the Government forest, which was not far off. Now, though the

sportsmen had gun licences, none of them had permits to shoot in the Government forest; and if they did so, and were caught, they would get into trouble. This led to a discussion, and eventually the party split up into two sections.

Khalil Ullah and Ali Ahmad refused to go into the forest, and went off to try their luck in the *zemindari* jungle, while Fakrud-din, who was the moving spirit of the party and a man who loved adventure, together with his servant, Ali Baksh, and Ibrahim, Sohan, and Gulzari, went to the forest. It was arranged that all should return to Karim's place at about sunset. Khalil Ullah and Ali Ahmad arrived at the rendezvous an hour before the appointed time, having had a poor day's sport. The other three, Fakruddin, Ibrahim, and Ali Baksh, were late, and did not return until about an hour and a half after sunset. The other two men were not with them, and were believed to have gone back to their village. No definite plans had been made for the next day, but it had been generally understood that the shooting would be continued. But Fakruddin suddenly announced that he would have to be off. Khalil Ullah afterwards gave the following account of what took place: 'When they had come, Fakruddin said, "Take your food, and then we will go back to the city". This was a sudden plan. Fakruddin said he had forgotten that his father was a candidate for the Municipal Board election on the next day, and that he must go and help him. Previously we had not intended to go. We went on a bullock cart, some of us walking. Ali Baksh drove the oxen. We stopped at one place to change the oxen, but found none there, so we went on to the city with the same oxen, arriving next day at eleven o'clock. Those of us who had been walking were able to get on a firewood cart to finish the journey.'

Meanwhile, Nanak, the father of Gulzari, was getting anxious about his son, who had not put in an appearance. This is always a disturbing event in an Indian household. Villagers seem ready, on the least occasion, to suspect that some evil has befallen an absent member of the family who is unexpectedly missing without cause. Gulzari had no business which would take him away from home, and had said nothing about the possibility of his not coming back to sleep. So Nanak gathered four or five men together and went off to the field where Gulzari used to watch, and then tried the *zemindari* jungle. Then, thinking that perhaps Gulzari had gone into the Government forest to get wood, they con-

tinued on their way there, and made a thorough search, without result. On their return, they met a man who told them to ask Sohan, as he had seen Gulzari going off with Sohan the previous afternoon, and he thought that they were on a shoot. Nanak then went home. On the Thursday he went to see Sohan, who told him that he and Gulzari had gone off to the forest for *shikar*. The demeanour of Sohan was not satisfactory. Indian villagers are quick of observation, and they have their own methods of bringing pressure to bear on anyone who appears to be keeping something back. Nanak said he would go and fetch some more men, and would return. He returned with a very large collection, and about fifty in all were gathered together, many swarming to the spot, as they always do when they think there is something up, to hear what Sohan had to say. In view of what was discovered, and of the evidence which he subsequently gave, Sohan's statement was remarkably disingenuous, and to Nanak sufficiently disquieting. He said that the shooting party, of which Fakruddin had been a member, had separated into two lots, and that he, Sohan, was with one, while Gulzari was with the other. He had heard a gun fired at a place called Pirwali Ghati, and 'they might search there'. This last phrase was typical. It is a favourite method with villagers who have something on their consciences which they are unwilling to divulge, to throw out a suggestive hint, with a significant manner—and the demeanour is more important than the words spoken—based upon what they know to be the facts, and designed to put the inquirer on the right scent. They do not expect to be believed if they tell the whole truth. But what operates still more forcibly upon their minds is a curious and instinctive, but very pronounced, objection to saying anything which amounts to an admission of proximity either to the commission of a crime or to a corpse. This is one reason why a villager will hardly ever stay near the spot where a crime is being committed, or where a fight, involving personal injuries, is taking place. He will certainly not intervene, or go to anyone's rescue, unless it is a near relative who is being hurt, and even then he will often run away. He values his personal safety too highly to run any risk. But he will not be the first, if he can possibly help it, to disclose direct knowledge of the occurrence, and he will never voluntarily be the first to make a statement which puts him in close contact with the *corpus delicti*. He has an idea that, in the absence of anyone else, he will be held responsible,

and that it will be idle for him to tell the real truth as he knows it. He seldom gratuitously reports anything to the authorities, unless it concerns him in the capacity of a complainant. He pins his faith to that 'absence of body' which is said to be better than 'presence of mind'. He is not unsympathetic, or unwilling to help the family of the victim. Far from it. But he prefers to let them go and find it all out for themselves, after throwing out a bare suggestion as to how they can do it. He is not going to put his head in the noose if he can help it. This was the line first adopted by Sohan. But he went on to say, somewhat inconsistently, that he had conducted the *shikāris*, whom he had accompanied on the shoot, back to the house of Karim, and that the members of the other party had told him that Gulzari had gone off home. This, of course, was a downright falsehood, and he knew better. But his motive in repeating it is clear. He wanted Nanak to understand that there had been some ugly work, and that it was Fakruddin who was responsible for it.

Upon hearing what Sohan had to say, Nanak and his friends went off to the forest. They were a large crowd, and Sohan accompanied them. When they got to Pirwali Ghati, they portioned out the ground into sections, and, a group taking each section, they spread themselves out and scoured the place. They carried on their search from about nine in the morning till mid-day, and throughout these long three hours Sohan allowed them to continue their labours without doing more than make a show of assisting them. This, again, is typical. He was not going to find the corpse himself, or to take them to it. He did not join the group in which Nanak was, and after taking part in the search made by one section, he sat down and contemplated the scene. But he had the grace to suggest that they should look well in a certain direction, which he pointed out, because that was where he had heard the gun fired. Of course, the notion that you can locate the actual spot where a gun has been fired in a thick forest of jungle, from the sound of the report heard from a distance, is unconvincing. But the patience of the Indian villager is inexhaustible, and they worked on in accordance with Sohan's indications. Eventually, one of the village *chamars* came upon a headless corpse, in a small *nullah*, or ditch, which had a low bank on either side. The body was lightly covered with some earth and leaves. A sort of hole, but not a deep one, had been dug in the soil of the ditch, and here the corpse had been laid. Probably

those who buried it hoped that by leaving it near the surface they would secure its destruction the sooner, as it would be very likely to be torn and mangled beyond recognition by jackals and other prowling animals. Or they may have been lazy—a common trait in Indians, who dislike prolonged hard work—because they certainly had had plenty of time to bury the body. Nanak had no difficulty in recognising his son. The head was not there, and it was never seen again. But the deformed hand and the clothes left with the corpse were quite enough. If the object of those who had left the trunk there had been to destroy the possibility of its being identified, it was a clumsy piece of work, and leaves one wondering.

The place where the body was found was only about a furlong from Karim's house. The earth round the body appeared to have been stained by a quantity of blood. The hands were tied with a sort of cloth scarf which belonged to the deceased. The legs were bare, and his *dhoti* was under the body, while his shirt was lying by the neck. There was a hole in his stomach which appeared to have been made by a bullet, and the intestines were protruding. Sohan made no statement at the time. Nanak, who was naturally stricken with grief over the loss of his son (for nothing worse can befall a Hindu), went off with the village *chaukidar* and another villager to make a report at the police *thana*. The distance was three miles, and they got there some time after four o'clock on the Thursday. They reported a case of murder against Fakruddin and Sohan and several other men whose names and addresses they did not know, and stated that it had taken place on the evening of the previous Tuesday. The charge against Sohan for having taken part in the murder is interesting. They had evidently come to the conclusion that he had not told them the truth, and had drawn their own inferences from his general demeanour and from his having been able to direct them to the spot. They had rejected, in their own minds, the statement that he had done no more than hear the gun-fire from a distance. The report stated how Nanak had got into touch with Sohan after missing his son, and went on to quote what Sohan had said when he was questioned:

Sohan, sweeper, replied as follows: 'I myself had gone with the *shikâris*, who were four in number and had formed themselves into two separate parties. One of the parties, which consisted of Fakruddin and your son and three others, had gone to Pirwali Ghati, taking guns with

them for shooting. I and four other *shikâris* went with guns for shooting to the jungle on the left side. A short while after, a report of gun was heard coming from Pirwali jungle. On our shooting expedition we went to the house of Karim, and asked him where the *shikâris* had gone to. He replied that they were taking their meals, just at this time, at his house. My companions also started taking their food there. I inquired of Fakruddin about Gulzari's whereabouts, who had gone with him for shooting. Fakruddin replied that Gulzari had left the party on the way, and went away. Karim gave me two loaves of bread, and I went away to my house.'

The report then went on to describe the search, and the finding of the corpse and the grounds for its identification as the body of Gulzari. Strangely enough, it contained no further mention of Sohan. It concluded as follows:

The earth was removed from the body, and I found a gunshot wound in the abdominal region, below the navel, which had been pierced through and through. It is not known whether the bullet hit the abdomen in front or the waist at the back. A number of men are busy searching for the head, and I have come to make a report. An investigation may be made. I charge these *shikâris* with shooting down my son, as well as with cutting off his head and causing its disappearance, as it is not forthcoming up to this time.

A note was made by the police *muharrir*, or clerk, that the report had been entered, word for word, as given by Nanak. Two observations may be made upon it. Except for quoting exactly what Sohan had said, it made no reference to him at all. It did not even mention that he had accompanied the search party and taken some part in the search, or that he had been present at the discovery of the corpse. The fact that Nanak and his friends believed Sohan to be one of the murderers is not surprising, but it makes it strange, indeed, almost incredible, that they should neither have taxed him with it nor asked him to give some further explanation, nor even said a word to him, when they came upon the headless corpse in the jungle. Secondly, it may be noted that the language used in the conclusion of the report left it open whether Gulzari had been murdered by being shot, or whether he had been finished off by decapitation; but the latter was the alternative which was pretty plainly suggested. It may also be observed that nothing was said about any motive, which is a very unusual feature of a report of this kind made by villagers; and also

that, although the repetition of what Sohan had said to Nanak was the only reference to Sohan contained in the report, the police felt no difficulty about entering the case as a charge of murder against Sohan, as well as against all the others. Nur Mohammad, the Sub-Inspector in charge of the *thana*, heard of the report on his arrival at the *thana* about eight o'clock that evening, and at once went off to the spot. He first went to the village, presumably to make some preliminary inquiries. These might very likely throw some light upon the question of motive, which is usually regarded as the first and most favourable point from which to start an investigation. He could have gathered nothing which threw any light on the crime. He got a lamp and gathered some villagers together, and reached the *nullah* about three o'clock in the morning, when he found the body still lying there, watched by several men, including Nanak and an uncle of the deceased.

On making a complete examination, he noticed that the *dhoti*, already mentioned by Nanak, was torn, as well as the man's coat, which was lying on the body. Round the neck there was a great deal of blood, which had soaked into the ground, indicating that the head had been severed at the place where the body lay. He also found a lot of blood on the ground at a spot twenty-eight paces from the body and three paces from a tree growing at the top of one of the banks of the *nullah*. On inspecting the tree, he found what looked like a recent bullet mark, one foot from the ground. Neither the missing head nor the bullet were ever found. He then sent the body for post-mortem examination, and took statements from the villagers who had seen the dead man and Sohan with the shooting party.

The next important step taken by the Sub-Inspector was to visit the house of Fakruddin. Here he found Ali Baksh, but Fakruddin was away. He had a conversation with Ali Baksh, and asked him what had happened. Ali Baksh said that he was ready to give an account of his share in the business whenever he was asked. The Sub-Inspector, in his evidence at the trial, said that he had told Ali Baksh generally, as a sort of moral principle, that it was better, or beneficial—the Urdu word he used is somewhat ambiguous—to tell the truth, but he denied having told him that he would be made an approver. This happened on Sunday the 6th, and on the 7th Ali Baksh made a formal confession before the Magistrate. As he subsequently retracted it, it will be more appropriate to deal with it in connection with the evidence which

Sohan gave at the trial. It is important to bear in mind that when the Sub-Inspector had his interview with Ali Baksh he had already taken a statement from Sohan. Ibrahim was arrested on the 8th, and the Sub-Inspector took possession of a coat belonging to him, which appeared to be stained with blood.

The post-mortem examination took place on the 5th, and the summarised conclusion of the report made by the assistant surgeon was that the probable cause of death was a gunshot wound, producing fracture of the iliac bone, hæmorrhage, rupture of the intestine, and shock. A cord was found tied round the waist. There was a hole, made by a bullet, right through the abdomen, about half an inch to the right side of the middle. The doctor did not trouble to try and discover if there were indications showing whether the shot had entered from the back or from the front, but the way in which the small intestine had been pushed out suggested that it was the former. There was a corresponding hole in the *dhoti*. There was also a wound of about the size of a shilling on the right buttock, two and a half inches from the middle, and two inches below the crest. The muscles were congested, and the bone under the muscles was fractured. Where the head had been severed, the margins were not congested. The doctor reported that in his opinion an extensive wound of that kind would have left the tissues congested, if it had been inflicted even just before death, and he therefore thought that the head had been severed after death. But he added that it was extremely difficult to differentiate between a wound inflicted after death and one inflicted just before death. He was not adequately examined on this point by the magistrate, and he was not called at the trial. The stomach was full of semi-digested food. It was not stated what this was, but it was, no doubt, the ordinary grain food taken by Hindus, and it may be safely conjectured from this that death took place not much more than an hour and a half after the deceased had eaten his mid-day meal.

It may here be observed that the post-mortem examinations conducted in some parts of India, particularly those by Indian and junior members of the medical service, leave much to be desired in their analysis of the small but often all-important points from which inferences as to the time when and the manner in which death has been caused may be drawn. It is often of the utmost importance to be able to draw some inference as to the probable interval of time which elapsed between the last meal taken by the



deceased and his death. The external appearances round the wound are also of importance, and are often overlooked. No special attention seems to be paid to forensic or medico-legal study, which forms such an important part of nearly every doctor's work. Few of the men trained in India seem to take any special interest in the subject or to make it part of their private study, and it is seldom that one hears of any course of lectures being delivered on the subject. In the course of hearing appeals, one has often had occasion to notice the difference in this respect between the evidence of an English civil surgeon and that of an Indian assistant, and, although there are exceptions to every rule, it has sometimes been necessary for the Court of Appeal to summon a doctor before them with the object of obtaining further evidence to elucidate some doubtful point. It also happens at times that the conclusion of the post-mortem report is a little vague about the actual cause of death, when there may be a serious question, for example, as to whether it was caused by strangling or by hanging, and whether, again, it may be safely held that the deceased man was capable of intelligible utterance, when a dying statement is relied upon. It would be of great assistance to courts which have to try important and difficult criminal cases, and to hear appeals, if more attention were paid to forensic medical science. During the period of my service, also, in cases of arsenical poisoning, and cognate cases, the Government chemical examiner never, to my knowledge, furnished the authorities with a quantitative analysis.

On the 24th of December the English Superintendent of Police went to the spot where the corpse had been discovered. He found, at a distance of 4 feet 10 inches from the spot where the man's neck had lain, a leaf in a spider's web, in a cleft in the side of the bank. The leaf was well entangled in the web, and must have been there for some time. It bore spots which appeared to be stains of blood. The chemical examiner reported that this leaf bore several minute stains of blood. The cleft in the bank was above the level of the bed of the *nullah*, but was not in a line from where the corpse was found to the blood-stained ground near the tree. The Superintendent also noted that the tree and the *nullah* were right in the heart of the thick jungle. The trees grew very close and there was no pathway, and it was not easy to pass through the undergrowth, though he found that a man squatting could be seen from a distance of about fifty yards.

Ibrahim and Ali Baksh were charged with murder, and were committed to trial by the magistrate. Fakruddin had absconded, and all efforts to trace him failed.

Sohan was the principal witness. Whether he was to be regarded as an accomplice may be considered rather a nice question, but it did not matter, as there was clearly corroboration of his evidence, and the substantial issue was whether he was to be believed. He said that he had known Fakruddin for many years. He was a *sheikh* and a *zemindar*, and the shooting in the *zemindari* jungle belonged to the *sheikhs*. Fakruddin had often taken Sohan with him. Sohan was paid for his trouble, but on this occasion all he got were the two loaves of bread given him in the evening by Karim. His account of what happened after the party to which he belonged had entered the Government forest was as follows. The variations from the tale which he had originally told to Nanak are obvious, and he duly explained them. The Sessions judge who heard and decided the case, with the assistance of assessors, said, in his judgment, that Sohan's demeanour was good and that he appeared to be speaking the truth, while nothing was elicited which suggested that he had any ill-feeling towards either of the accused.

After some distance (he said) we came across a *chital* (stag). Fakruddin fired at it. The stag was not hit, but Gulzari fell. He cried out, and we went up to him. Gulzari was 25 or 30 paces from Fakruddin when he was hit. The bullet hit him in the back, and went through his stomach. Ibrahim, Fakruddin, and Ali Baksh consulted separately from me as to what was to be done. Ibrahim suggested finishing him off, or else he would get us arrested, because someone would be attracted to the spot by his cries. Those three picked him up and carried him to the *nullah*, a distance of about 25 paces. I also went, but I did not go into the *nullah*; I stayed on the bank. When Gulzari cried out, they put a scarf into his mouth, and so stopped it.

Ibrahim seized Gulzari's two hands and pressed them down on his chest. The *nullah* is a small one and in the jungle, and full of leaves. It is as wide as the space of my two outstretched arms. Ali Baksh pressed down his foot, as Gulzari began to kick when the scarf was pressed into his mouth. Then Fakruddin cut Gulzari's throat with a long knife, which was tied to a string which was over Fakruddin's shoulder. The head was completely severed from the trunk, and then tied in a piece of cloth taken from Gulzari's coat. Then they covered the body, making use of Gulzari's axe, and scraping stones and loose earth over it. They got the earth from the bed and from the bank of the *nullah*. Fakruddin

and Ibrahim then came to me, and said, 'Will you tell, or no? If you do, you will suffer the same fate.' I clasped my hands together, and said, 'I will tell no one'. They said, 'Don't say a word as long as you live', and I promised not to.

Ali Baksh took Gulzari's shoes and axe in his hand, and Fakruddin took the head. The clothes were left on the body. The day was ended when we left, and it was dark. When we came out, we met a man I knew, and I asked him the way to Karim's house. I did not go there. When we got to the path, I left them and went home. They said they would stay four days at Karim's house, and if I told anyone they would come and murder me. That day, Ibrahim had a pain in his foot, and wore a sandal on one and a shoe on the other.

Gulzari's father came to me on the Thursday morning and said that he had been missing for two days, and asked me to come and search in the forest. I went with him. Crowds of people went too. The body was found at the place where it had been left.

*Cross-examination.*—Gulzari was kicking his feet hard when his throat was being cut. When first hit, he fell down, and then sat up again. He did not stand up. No one took his hand to make him stand up. I did not speak to him. He said to me, 'Don't touch me or move me. I am in pain.' No one spoke to him. When they were consulting together, they were about four paces from me. They spoke in ordinary voices. The scarf was bunched up over the man's face and throat. I could not see the cutting, as it was done under the cloth. Ibrahim was not wearing the coat produced. He was wearing the waistcoat he has worn in court. The consultation took place five or six paces away from Gulzari. He could not hear what was said, as he was making such a noise. I could hear, as I was nearer. Ibrahim used the very words, '*Khatam kar dena chahiye*' (we had better make an end of him). He said nothing else, and the other two said nothing. I told no one until I told the Sub-Inspector.

I was still afraid when I returned to my village, and also when Nanak came to me to inquire. I was afraid of Fakruddin. When we set forth to search I was still afraid. I wanted Gulzari's body to be found. I indicated the way. I said 'Go this way; the shot was fired in this direction'. This was so that the body might be found early. I had told them that I had separated from the others. I did not know the exact spot, because it was all jungle. I wanted the body to be found, so that they should be run in. When the body was found, I formed the intention of giving out the story, in their presence, and before the police. After they had left the house of Karim, and the police Inspector was there, I was no longer afraid. I did not say before that there were leaves in the *nullah*, because I was not asked. I did not say before to-day that Gulzari kicked when the scarf was put in his mouth.

What I told Nanak originally was false, that I had separated from the others before coming to the forest, and did not know what had happened to Gulzari. I was afraid, and so lied. Ibrahim did not separate from us because of his foot; he was limping, but kept with us.

The cross-examination, which was very long, and of which the above is only an extract, did not get anything out of Sohan, except the perfectly reasonable explanation of his inconsistent statements, and the rather important fact that he had not previously mentioned the sole fact, namely, the kicking of the foot, which indicated that Gulzari was alive when his head was cut off. But the whole tenour of his evidence points to this; as, if Gulzari had died a natural death from his wounds, Sohan would certainly have said so.

At first sight, the story, on the face of it, appears to be highly improbable in its main features. Cases of accidental shooting are of infinite variety. Men have been peppered in the course of a drive, where there has been bad management or some carelessness, or unsportsmanlike selfishness and bad shooting. There are instances of well-known sportsmen who have lost an eye from a mistake by a companion out shooting. Where there is a line of shooting butts, and birds come flying overhead at great speed, and at awkward angles, sportsmen who have followed a flight round with their aim, and let fly at the last moment, have been known to hit people in a neighbouring butt, with scattered shot, though it is exceptionally bad luck when this occurs. There is an element of danger, with some men, in a thick wood. And at rifle butts, where men are firing with bullets, there have been extraordinary fatal accidents. But cases in which anyone in a shooting-party has been hit, comparatively low, by a shot from a gun, when ball cartridges are being used, must be extremely rare, if not absolutely unprecedented. One can only suppose that Fakruddin had no idea where the unfortunate Gulzari was—though, of course, there is no possible excuse for such foolish forgetfulness—and that the stag got up unexpectedly, and that Fakruddin followed him with his aim and shot a second too late, as Gulzari came into view. Tragedy is sometimes not far removed from comedy, and this terrible mishap is so ludicrous that it recalls a famous scene described in one of the dialogues of that vivid French literary artist, 'Gyp'. A portly old Baron was out with a country house-party after hare. He fired at one, and a cow was seen to fall. 'Ah! mon Dieu!' he exclaimed, 'qu'est-ce que

c'est ça?" The Duc replied, 'C'est une vache!' 'Je vois bien', cried the Baron, 'mais qu'est-ce qu'elle a?' The Duc—'Elle a que vous venez de lui envoyer un coup de fusil, parbleu!'

It seems hardly possible, after the evidence of the Superintendent of Police about the visibility, that Gulzari could not be seen. His *pugaree* would, in any case, be certain to catch the eye. He must have been walking away from Fakruddin, beating the shrub, and have put up the stag in front of him, and the stag must have been making off away from them when the shot was fired. There can be no doubt about its having been an accident, and it seems certain that, as Sohan said, Gulzari was hit in the back. It was generally assumed at the time, though no importance was attached to theories as to how the accident happened, that the bullet had first hit the tree, and glanced off it into the body of Gulzari, who certainly fell about three paces from it. But the fact that the bullet mark which was found on the tree, and which might well have been caused on another occasion altogether, was only one foot from the ground, makes the theory that the bullet glanced from the tree and then hit Gulzari quite untenable. It is impossible to dogmatise as to whether a partly spent bullet, after first hitting a tree, would still be travelling with sufficient velocity to go through a man's body. Something must depend upon the charge. It is conceivable that it would. But no one, firing at a stag in flight, would aim so low as a foot from the ground; and if, from gun-shyness or some other cause, he had dropped his weapon in the act of discharging it, and hit a tree as low as that, it would not be possible for the bullet to acquire a new trajectory, so as to reach to the height of a man's waist, standing only three paces away. One would have expected, in any case, that after hitting a tree the bullet would have stayed in the man's body. But no bullet was found in the body. It is certain that the bullet passed through the body first, and struck the tree a glancing blow after coming out the other side. In that case it ought to have been quite possible to find it, after a thorough search by a large body of men. But no one seems to have troubled about this. The search was a casual one, and there was no real point about it except that the discovery might have supported the account which Sohan gave of the way in which Gulzari was originally hit.

But the part of Sohan's story which seems *a priori* incredible is the decapitation of Gulzari while he was still alive, and on this,

of course, the whole question of guilt or innocence on the charge of murder turned. Why should they have decided to kill Gulzari at all? And, having decided to kill him, why should they do it by cutting off his head? They could have dispatched him in so many other ways less difficult and less likely to create evidence against themselves, and have decapitated him afterwards. The answer probably is that they completely lost their own heads.

It is probable that the idea uppermost in their minds, when the accident occurred, was the fear of the consequences. Apart from his natural inclination to trifle with the truth, the Indian always has the notion, if he is in trouble, that if he tells the truth he will not be believed. Fakruddin and Ibrahim, as the letter to Khalil Ullah shows, were men of position and education. The instincts of humanity should have prompted them to try and save the man's life. They had only to get a bullock cart and go off to the nearest police *thana*, which was no more than three miles away, taking the body with them. They would have obtained medical assistance there, after some further delay, and it was by no means certain that Gulzari would have died. They must have thought, as is so often the case with men of their class, that no one would believe that it had been an accident. There was no reason why any one of them should have shot Gulzari, except by accident. But they are so accustomed not to be believed by the authorities, sometimes with only too much reason, that they seem to lose their sense of proportion and not to recognise when a story carries with it its own conviction. This characteristic is a very prominent one in the administration of the criminal law in India. A plea of guilty is almost unknown, except when it proceeds from some frenzied individual who has run amuck and done someone a personal injury, and would rather like to do him another. An Indian barrister or counsel will hardly ever plead 'Guilty' and throw his client on the mercy of the court, however great the inducement to do so on the merits. His client would at once suspect him of having sold him, or charge him with incompetence and neglect. There was the further difficulty with Fakruddin and Ibrahim, that they had no business to be in the Government forest, and that they might get into trouble, and possibly lose their cherished gun licences, over that. If they had thought the thing out, they might have escaped making even this admission, or the point might have been lost sight of in the gravity

of the accident. It is fairly certain, therefore, that they must have decided that they could not face the admission of a serious shooting accident. According to Sohan's evidence, it was the fear that Gulzari's cries would bring someone to the spot, making concealment impossible, which influenced them. But the business of stifling his cries was quite a simple matter. The decision to murder the unfortunate man must have been almost immediate. This is borne out by the words said to have been spoken by Fakruddin, 'We had better make an end of him'. There is no other explanation of the removal of Gulzari into the *nullah*. At the trial no attempt was made to cross-examine the witness Sohan on this point, and it seems that the judge did not refer to it. In India, where the sessions judges decide all capital and most other criminal cases alone, except in certain commercial cities where juries have been introduced, it is their duty to write a full judgment, setting out all their reasons. The whole conduct of the murderers was so extraordinary and unprecedented that it is not easy to apply the ordinary canons of reasoning to it. But the mere decapitation after death for the purpose of destroying identity did not in the least necessitate removing the man from the place where he was hit. If they had laid him down and suffocated him, they could have waited a little and removed his head afterwards, with very little more spilling of blood than had already been caused by the wound. They must have foreseen that his decapitation while still alive would involve considerable shedding of blood, and have carried him into the *nullah* in the hope that the traces of it could be more easily covered up there. But even when they had done so, it might have occurred to them that decapitation while he was alive was sheer madness. The probability is that if they had given themselves more time they would have noticed the maimed hand. But it is fairly clear that they thought they had hit upon the brilliant plan of killing two birds with one stone, by cutting off his head and making an end of him and at the same time destroying his identity. But here, again, they were guilty of the most absurd stupidity, because, after having taken all the trouble to cut off his head and make away with it, they left the clothes lying with the corpse, some of which were certain to be recognised, even if the body was mangled by animals. When all is said and done, the most absurd thing about their conduct was that they should have imagined that a mere concealment of the body could save them, knowing as they must have known the

sort of hue and cry which is always raised when a well-known man is suddenly missing from his village. It was known that Gulzari had gone with Sohan on the shoot, and that he had only a short distance to walk home in the evening, and his sudden and total disappearance would never be allowed to pass without pressing inquiries and investigation. On the whole, the crime as described by Sohan was one of the most callous, brutal, and absolutely senseless ever perpetrated upon a perfectly harmless individual, whose lamentable and helpless condition, created by almost criminal negligence, demanded, in the name of humanity, every possible effort to ameliorate it.

The next topic, the medical evidence, was, on the whole, favourable to the defence. We have already seen that the post-mortem report said that the decapitation took place after death, but that this opinion was qualified by the statement that it was extremely difficult to tell. The English Civil Surgeon was called at the trial, and gave evidence about this question as an expert. He had examined Ibrahim, and gave evidence that the injury on his left foot was a mere blister of no importance, though probably painful. He agreed that it was very difficult to say whether the throat wounds were caused before or after death. But the post-mortem report had disclosed that the chambers of the dead man's heart were empty, and he said that the bullet wound in the abdomen could not have accounted for this. He considered that the bullet-wound was probably fatal; the man might have died within an hour, or he might have lived for two days. If the man had been alert, for example, able to speak and kick, as Sohan said he was, there would probably be spurting from the arteries of the neck when the head was severed. If there were evidence that blood had spurted for more than a few inches, the heart must have been beating, and the man was therefore alive; and it was possible for the blood to spurt a distance of 4 feet 10 inches, which was the distance from the spot where the leaf was found to the neck, but he did not think that the stains on the leaf produced were typical of the spurting of blood. He said that retraction of the skin and muscles round the wound would indicate that there was life in the skin, which is on the stretch in a living person. This was not observed upon in the post-mortem report. There might be bleeding after death when the arteries, by their elasticity and power of contraction, empty themselves into the veins, but it would not be extensive, and would be ejected in a



continuous and not in a jerky stream. There was thus a good deal to be said, from the point of view of the defence, on the medical testimony.

The foregoing constituted all the important evidence which could be called, with the exception of the confession of Ali Baksh, made before a magistrate on the 7th of December. He retracted this confession when he was before the committing magistrate, and then told a totally different story. This took place on the 16th. He said on this occasion that ever since his arrest he had been rotting in a solitary cell in the jail, and that he had only come to know that day that he was an accused person. He had evidently hoped that he would be made an approver, and, in the way explained in the Introduction, had probably been encouraged in this hope by the investigating officer. His confession and the retractation of it must be studied in detail. The material parts of the confession are as follow:

Q. See that your confession will go against you, and a case will be initiated against you, and perhaps you may be hanged, and the statement you are going to make here and now will be considered as true.

A. No, sir, I am determined to make a confession. I do not mind if I am hanged.

Q. I am not making a promise of pardon to you, and warn you that you will not get a pardon.

A. I know that. I am determined to make a confession, even if I am ordered by the court to be hanged.

Q. Are you saying this as the result of any pressure, or in consequence of any fear, threat, or inducement, brought to bear upon you by the police?

A. Not as the result of fear of any one. I have no one to fear but God, even if I were hanged. I have this much to say, sir. I was out shooting with Fakruddin. It was a Tuesday. We took with us a sweeper. His name was Sohan. Then we got a *banjara*, whose name was Gulzari. Thereafter we went to the jungle. While there, sir, a *jhank* (*chital*, or stag) started up, and Mian Fakruddin fired at it. The bullet did not hit it, but hit Gulzari, who fell down. Fakruddin *sheikhji* asked me to get hold of Gulzari. I caught him by the leg, and said he should be sent to the authorities, where he would be looked after and might survive. He replied, 'Do not talk nonsense. I will shoot you down.' Ibrahim caught hold of him. Fakruddin and Ibrahim held him by the arms and I held him by the legs, and we took him to the nullah. He was shrieking and crying, and was going to die. I advised them not to cut off his head, but they said, 'Do not talk. I will cut his neck in order to make him incap-

able of identification.' They cut off his head with a knife, and asked me to go away and cook food for them. Fakruddin said he would come after burying the corpse. Before we went away, Fakruddin and Ibrahim wrapped up Gulzari's head in his own cloth, and kept the shoe and hatchet with them. The sweeper went away to his village. Ibrahim and I went to the house of Karim. Then Fakruddin came, and I was told to go on, while those two men went to the river. They buried the head in the sand, and washed their hands and feet. They also buried the shoe and hatchet there. We arrived at the enclosure where we had our meals. Having finished, we went to the river, and we took the head, the hatchet, and the shoe out of the sand and put them on a country cart. We left at night. When we stopped, I was sent to get fresh bullocks, but could not, and all of us started again with the same country cart and reached the city. I kept silent because they were ready to strike me.

In addition to making the new statement which follows, he was asked by the committing magistrate, in accordance with the prescribed procedure, whether he wished to give any explanation of the evidence against him, and of his confession. He replied that the statement he was making that day was the correct one, and that the confession which had been recorded was untrue. His explanation of it was that the Sub-Inspector had given him a beating and knocked out a tooth, and that it was through fear of him that he made it; that he had promised to send him back to his house the next day and make him a Crown witness, and told him that if he did not make the statement as he had done, he would be put to death by being burned down with the thatch of his house, and would not be allowed to live there; and that the Inspector had also told him that he would have him hanged. All this is, unfortunately, only too typical of the sort of inconsistent and irreconcilable rambling which men indulge in who have confessed and afterwards retract the confession when they find they are not going to be made approver. In this particular instance the statements have all the appearance of 'common form', which many of these ignorant and stupid villagers must pick up in conversation, either from other prisoners awaiting trial or from some one of the petition-writers or touts who infest the precincts of courts, and even jails, and write out any sort of application required by circumstances and petitions of appeal—the contents of which, unless an accused or convicted man has some original or genuine story of his own to tell, are provided

for him by the petition-writer himself. Ali Baksh's answers to further questions put to him for the purpose of developing his defence only repeated the substance of the statement given below. He was represented at the trial by counsel provided by the Crown. His new statement was as follows:

I do not know if Gulzari was shot by Fakruddin. I do not know if he was shot at all. I was not with Gulzari or Fakruddin. I did not cut the throat of Gulzari. I did not hold his legs when his throat was cut. His throat was not cut in my presence. I do not know how he met his death. I did not carry Gulzari's shoe or axe.

I do not know why I am accused of murdering Gulzari. I made my former statement by fear of the Sub-Inspector, who had beaten me. He also promised to make me an approver and let me off. He threatened to kill me if I did not make the statement. In the morning Ibrahim, Fakruddin, Khalil Ullah, Ali Ahmad, and I went out for shooting. In the way Fakruddin called Sohan, sweeper, who was in the field, and asked him to accompany us shooting. We drank water; I went to get sugar and cigarettes from a *bania*. Then we proceeded to the jungle. There Sohan asked Fakruddin to send for Gulzari. Sohan brought him. Khalil Ullah and Ali Ahmad went one way, and Ibrahim, Fakruddin, Sohan, Gulzari, and I took another. Ibrahim said that he could not walk, as he had a bad foot. Fakruddin told him to sit there. He said that he could not sit alone; therefore I sat with him. A little after, Ibrahim asked me to go to the house of Karim. In the way, when I turned back I saw Fakruddin and Sohan coming. When we reached the house, Fakruddin arrived just after us. After a little while he went out of the house and had a talk with Sohan, and asked him to return after some time and accept his reward. Some time after Sohan came, and Fakruddin gave him reward. Fakruddin asked Sohan to go home, and said that he himself would return to the city. An hour or two later I took them in the bullock cart. Fakruddin, Sohan, and Gulzari alone went out for shooting. I did not hear any gunshot.

At the trial Ali Baksh repeated the above statement, and added: "The Sub-Inspector hit me with a *lathi* (a long, heavy bamboo stick, carried by all Indian villagers) twice on my buttocks; if I had got another blow like that I should have died."

Ibrahim, when asked what he had to say, made the following statement, which was what he had already said in substance when before the committing magistrate:

I know Fakruddin. I had gone along with him for shooting. I did not know Gulzari. I have now come to know that a man who had gone with

us was called Gulzari. I do not know if Gulzari was shot by Fakruddin. I cannot say if he was shot at all, or not. I did not cut, or hold the hand at any time of cutting, the throat of Gulzari. It was not cut in my presence. I do not know how Gulzari met his death. Probably Sohan knows about the incident; therefore he accuses me to save himself. I have nothing more to say. I am not guilty.

A study of these statements is particularly interesting, because they show the somewhat subtle and tentative fashion in which what was the only sort of defence put forward was gradually developed. Both of the accused attempted to throw the blame upon the absconding Fakruddin, not from any knowledge which they professed to have themselves, but as the only reasonable explanation of the prosecution evidence. But they fully realised that it was idle to suggest that one man alone could have committed the deed. So Ali Baksh threw out the suggestion, by a series of subtle hints, that Sohan was responsible for dragging Gulzari into the party, presumably for some special motive of his own, and that there was some secret understanding between him and the absent Fakruddin. Ibrahim follows this up, and screws himself up to putting the point quite bluntly, as a sort of finishing touch to the argument, by saying: 'Sohan knows all about it, so he must be implicating me to save himself.' This form of subtle suggestion, by slow development, is quite a common method of putting forward the defence in India, and it sometimes happens that it is founded on fact, and that one of the chief witnesses is one of the chief offenders. But, as a rule, the later it appears the less substance it possesses, though it has been known to be kept back even until after conviction and until the appeal, and yet to be found true. In this case there were two fatally weak points about it. No enmity, or motive of any kind, was shown to exist between Sohan and Gulzari, and Sohan was asked no questions suggesting this defence when he was in the box. Moreover, it is almost inconceivable that a *sheikh zemindar* would lend himself to a plot at the instance of, and for the satisfaction of, a mere sweeper, let alone risk his own neck for such an object.

A mysterious feature of Ali Baksh's confession is the statement about the removal of the head in the cart. This was not mentioned by Sohan, nor does it appear from the confession that Sohan would have known of it. Ali Baksh says that he did not go with Fakruddin and Ibrahim to the river, where the head was buried; and he must have inferred the circumstance, if it hap-

pened, from the removal of the head from the sand, in which he says he took part, after the evening meal. If this did not happen, his confession was so far untrue, and faith in it is shaken. Nothing more was discovered about this. If it did happen, it was an extraordinary and incredibly risky proceeding for murderers to carry the dead man's head in a cart on their way home. Their two sporting companions, Khalil Ullah and Ali Ahmad, would be almost certain to discover it, and to feel very uncomfortable about it. It may be that the murderers had to risk this, or had already confided to their friends the story of the crime, trusting to the bonds of caste fellowship, and that they just threw away the head anywhere on some waste land during their long night journey. Ali Baksh does not mention this fact, but, as he was driving the bullocks, it could have been done without his knowledge. The magistrate, who was entitled to, and who did in fact, interrogate Ali Baksh during the formal recording of his confession, might well have probed this matter a little further. But since the head was not found in the river-sand, the probability is that Ali Baksh was right when he said that they changed their minds and decided to take the gruesome object away with them.

A word should be said about the law of evidence bearing upon the confession. The law is that it 'may be taken into account' as against a co-accused. Of course, it is admissible against the accused who makes it. But the rule of practice is not to take it into account unless it is corroborated by some independent circumstance, and, therefore, it possesses about the same value as, and is treated in much the same way as, the evidence of an approver, except that it is inelastic and cannot be developed by any further examination or cross-examination.

Four assessors sat with the Sessions judge to hear the case. These functionaries are a compromise in India between a jury and a judge sitting alone. They are generally of better class and education than the majority of accused persons and of the witnesses in a criminal case, but their opinions have no legal effect upon the decision, and they are not proof against the attacks of sleep in a long and difficult case. They are an undoubted temptation to the eloquence of the advocate. When there are questions of custom, of the habits of the people, of credibility, of probabilities, and of fair inferences from conduct such as generally weigh with a jury, their opinions may be of real value, especially if they are carefully handled during the trial by an experienced judge;

and an appellate court will always give weight to their views, which they have to declare individually in open court, before the judge decides the case. But their views are often perverse. Where local prejudice, hostility towards the police, or any sort of communal, social, political, or religious feeling enters into the case, they are quite useless. They will simply follow their prejudices or caste feeling. They will convict dacoits without attempting to differentiate, however many may happen to be in the dock, as readily and as confidently, without regard to the weight of evidence against any particular individual, as they will acquit in a clear case of theft, or daylight robbery, assault, or rape. A Brahman accused of rape, or of indecent assault upon a low caste girl or young married woman, is certain to obtain a favourable opinion from a Brahman assessor. In this case there were two Hindu and two Mohammedan assessors. Their opinions were characteristic. The Hindus thought that the accused were guilty. The Mohammedans thought that they were innocent. The accused were Mohammedans.

But the judge, in a reasoned judgment, found both the accused guilty, and sentenced Ibrahim to death, and Ali Baksh to transportation for life (which is an alternative sentence for the crime of murder, when judicial reasons can be given for preferring it) because he was a servant and probably acting throughout under the direct orders and influence of his master.

Fakruddin may seem to have been fortunate. He organised the shoot. His almost criminal ineptitude with the gun brought about the original catastrophe. He was almost certainly the ringleader in the subsequent decapitation, and he managed to get away. But the lot of an Indian who absconds is an unenviable one. It becomes intolerable, and sooner or later he will give in and return to his native village. The 'urge' to live and die in his ancestral home, however humble, is generally irresistible, although his property has long ago been confiscated, and although he knows he will be laid by the heels. Men have been known to return and to give themselves up, and to be tried for murder and sentenced to death after the passage of years, sometimes as many as fifteen, when most of the witnesses are dead. Indeed, it often seems that when Kismet has turned against them they value their own lives as little as those of other people.

## II

### THE FATE OF THE WATCH-DOG

FEW things created so much sensation in the village of Solan, and so completely baffled the district police, as the disappearance of the servant Bhagwati. His mistress, Musammat Janki Kuer, was a well-to-do *zemindar*, and the owner of the village. She had inherited a number of villages. She was young, and was possessed of great personal attractions. She had acquired some degree of education, and could write as well as read Hindi. Above all, she had that indescribable, almost intangible charm which is one of the chief characteristics of the Indian woman of good birth who has partly broken through the *pardah*, and who, without actually coming into contact with Europeans, has acquired a veneer of Western manners through her men-folk who have mixed in English society. An aristocratic Indian lady brought up in this way lacks the artificiality and rather pronounced self-assertiveness and over-confidence of her more Westernised sister. She retains the artlessness of a child of nature, and she moves and talks amongst her circle of friends rather like a timid fawn, with a strange mixture of shyness and responsive, almost plaintive playfulness. Beneath the external polish and grace there lurks, as a rule, an uncouth and surprisingly repellent exhibition of mannerisms, observable in one who whitens her teeth and reddens her tongue and gums to the hue of freshly-shed blood by chewing betel-nut, and who has learned neither the use of a handkerchief nor an aversion to expectoration. As is her body, so oftentimes is her soul. Under her gentle, winning smile and fair skin smoulder the latent fires of an inherited savagery. She is capable of cold-blooded cruelty and ruthless brutality, especially to one of her own sex who has offended her, and of malice and all uncharitableness if her jealousy should be awakened. The Indian mind suffers keenly from the pangs of jealousy, which is quickly aroused. She is often steeped in religious and political bigotry,

and in a narrow-minded vindictiveness towards her neighbour or an erring servant. Musammat Janki Kuer seemed sometimes to be little more than a child, but she had great force of character. She was naturally vivacious and full of humour, and could be entertaining and charming when she pleased, but she had an iron will, and nerve and determination above the average of her class. She broke the *purdah* whenever it suited her to do so, although she preserved the appearance of it, partly from habit, and partly from a feminine appreciation of its value as a weapon both of defence and attack. She was married to one Kalyan Singh, himself a man of means, education, and position, whose interest in a flourishing business often called him away from home for long periods at a time. But the woman had acquired an unusual degree of independence. She lived for the most part, particularly during the hot weather, for which it was better adapted than most strictly Indian residences, in a large two-storied house in Solan. This house was of modern construction, with many Western amenities, and was part of her inheritance.

She had not secured possession of her property without a long and desperate struggle. She had been engaged for years in prolonged and complicated litigation, forced upon her by rival claimants whose methods of asserting their claims, aided by the tortuous and bewildering processes which the technicality of the codes, and the ingenuity and industry of lawyers and hostile agents, have made so popular in India, were characterised by a persistence in inverse ratio to the justice of their cause. The process had quickened her intelligence, and fostered a natural inclination to free herself from the fetters of seclusion which bind the majority of her class. She had emerged from it triumphant, but her victory had left her surrounded by enemies whose defeats, while they had almost exhausted their resources, had in no way diminished their venom or their desire for vengeance. This is a familiar phenomenon of Indian faction fights and of litigation over estates. The defeated litigant, however slender or imaginary his claims, always remains the aggrieved party, and nurses schemes for retaliation with unwearying hope and patient endurance. Musammat Janki Kuer was not unlikely to meet her enemies again in some new field which chance or their own ingenuity might provide for a renewal of their attacks upon her comfortable and peaceful existence.

She and her husband kept up a substantial domestic establish-



ment, in addition to the extensive cultivation of her own land. They had surrounded themselves, as is commonly the case with the heads of Indian families, rich and poor alike, with junior and indigent branches of the family tree. Amongst these were several nieces, and last, if not least, Kalyan Singh's widowed sister-in-law, Musammat Devi. It is as well for the reader to bear in mind the unenviable lot of the average Hindu widow. There are few creatures on the face of the earth who are so exposed to the risk of a long, hopelessly dull, monotonous, and despised existence. They cannot marry again, young though they often are when they reach widowhood. The Hindu widow is treated in the household as an incubus, and she has little to do except to perform the dreary duties of a drudge. It is not surprising that she is frequently tempted to vary her cheerless days with adventures in the field of love, and is easily induced to indulge in intrigues and intimacy with ardent admirers. The methods adopted for obtaining illicit entrance into the *zenana* are 'extensive and peculiar', and the scenes transacted behind the *pardah* have often been the subject of thrilling romances. The Hindu widow grows to learn the sweetness, and sometimes the bitterness, of forbidden fruit. Musammat Devi was a useful 'side-track' when the police made their investigation into the mystery of Bhagwati's disappearance.

On one of the occasions when he had to go away on business for several days, Kalyan Singh gave special instructions to Bhagwati to sleep between the entrance door and the main staircase leading to the upper story, and to keep watch lest any persons who had no business there should attempt to enter the house at night. These instructions were unusual and peculiar. They were given to Bhagwati alone, though if he was like the ordinary Indian servant he made no secret about them with his associates. But Bhagwati was given no companion in his night watch. Kalyan Singh had no special reason to fear an attack by *dacoits*. If he had, his precautions were quite inadequate for protecting his house and its inmates, or his property. *Dacoits* invariably come at night in large bands, with firearms and other lethal weapons; with torches, straw, and paraffin, and proceed to their work, after frightening away all the villagers and inmates of the house by a sort of preliminary bombardment in the air with their rifles. A well-armed body of villagers or servants is required to stop them, and once they effect an entrance they not only set fire to anyone

they catch, or beat and torture them until they disclose where the portable property is concealed, but after denuding the *zenana* of the jewelry they work their will upon the bodies of the defenceless women. It is almost inconceivable that the idea of a raid by a band of robbers entered into the mind of either Bhagwati or his master. Kalyan's conduct in leaving his wife in the house with such feeble protection is wholly inconsistent with such a belief. As will be seen hereafter, there was nothing to prevent her from joining her family, who lived in another of her villages not far away. But Bhagwati was an old and trusted servant, and he faithfully carried out his master's orders. It was always believed that it was to this fidelity that he owed his death. Anyhow, on the day following the third night after his master's departure he suddenly disappeared, and was never seen again, dead or alive.

One point about his disappearance was clear. Although his absence must have been generally remarked throughout the household, little or no notice was taken of it at the time. He was, on the whole, an indoor servant, with certain definite outdoor duties, and on the day of his disappearance he must have been missed several times before nightfall. There were many servants and other people in the house as well, who, for different reasons, were equally interested in keeping silent; some because they knew too much about the cause of his disappearance, and others because they knew too little, and hoped that by adopting a waiting policy—a favourite method amongst Indians when there is an unsolved mystery, especially when a murder is probably at the bottom of it—they could learn more.

Perhaps the strangest fact of all in the series of strange events which subsequently came to light was that even Kalyan Singh himself, on his return home, said nothing. If, in fact, he learned anything from any inquiries which he made, he kept quiet about it, and took no steps to ascertain what had happened to his faithful man-servant. It is, of course, a well-known psychological fact that if amongst a body of men, especially subordinates, there are some who have been up to some mischief, and the situation is such that they expect you to say something from which they hope to learn the extent of your ignorance, and you yourself preserve an unnatural and unexpected silence, sooner or later someone is certain to begin to talk. But the probability is that the real reason for Kalyan Singh's silence was that on his arrival

home he found that his wife, on the fourth day after his departure, had started for the village where her own family lived. She had left late in the afternoon, in a bullock-cart, taking with her a maid-servant and a quantity of her jewelry and other personal belongings, evidently with the intention of making a long stay. The season was October. The weather was beginning to cool; and the big house in which she had been living, and in which these events had happened, did not suit her during the cold weather. She had written to her husband informing him of her intentions, but the letter had not reached him. Soon after his return he also left the house, with his personal servants and a good deal of luggage, and joined his wife. No report was made to the police station, as is usually done when anything of this kind occurs in a village, about the mysterious disappearance of Bhagwati. But this course is seldom taken without the co-operation either of the *mukhia* or headman of the village, or of the leading *zemindar* if he is in residence, and no one was likely to intervene at this stage about an incident in the *zemindar's* house in which nothing had occurred to give publicity to the matter, unless the *zemindar* did so himself. The result was that there was no 'First Report', which is generally such an important feature in criminal cases in India, and no immediate investigation.

The absence of these two preliminaries in Indian criminal procedure has a bearing upon the subsequent events in this case, and it is necessary to give some account at this stage of the purposes which they ordinarily serve. The 'First Information Report', to give it its precise name, is the report immediately made at the nearest *thana*, or police station, in the district, of any sort of crime. It is usually made by the complainant, or by a near relative, who is generally accompanied by the village *chaukidar*, or official watchman. This man is a Government employee, and a sort of cross between the old English night watchman and the modern village constable. He is often a rogue, and almost invariably either supine or corrupt. His evidence in court, especially if it differs from the report to which he has made himself a party, is frequently bewildering, and the effort to sift it, and to separate the wheat from the chaff, is one of the most trying tasks of a sessions judge. Those who are initiated in the law of evidence may well ask themselves how a document like a First Information Report can be admissible at all. It is an *ex parte* statement. Without dwelling upon technicalities, it may be said that, while

it is admittedly no evidence against the accused, and while the statements it contains are not allowed to be treated as evidence of the facts alleged in it, it is universally admitted, and largely used, as a means of checking the statements made in evidence by the witnesses for the prosecution. A traditional practice has grown up, on the part both of the Crown and of the defence, sanctioned by the experience of generations, of making free use of it, and the line between its illegitimate use as actual evidence of facts and its legitimate use as a mere document of reference for the purpose of checking, and comparing with it, the sworn evidence at the trial, has been worn so thin as to be almost impalpable. The reason for this is obvious. The story it contains is very often cooked. Sometimes it is a mere hash of half-truths and hearsay which the *chaukidar* has made up in his head on his journey to the *thana*. But more often it is a carefully-prepared summary of the view of the crime which the village, led by the *mukhia* or by the leading *zemindar*, desires to be taken by the police. One of the first tasks, therefore, of the police is to discover whether it bears any relation to the real facts. If the case is a straightforward one, and the criminal is known to the villagers and they wish him to be caught and punished, the first report is generally straightforward too; though even then it is, more often than not, both economical in substance and inaccurate in detail. But the villagers themselves are so often anxious to shield the culprit and to confuse the police, or to start a positively false case, that anxious consultations take place before a decision is come to as to what shall be reported, and the *chaukidar* is sent off with a carefully prepared cock-and-bull tale. This may happen with the complicity of the *mukhia*, who, as headman, is morally responsible for making some effort to discover the criminal, and who can always protect himself from a charge of having made a false case by pleading that it was hearsay and all that he could learn at the time. Or it may happen through the agency of some leading members of a party interested in concealing the truth, who succeed in getting hold of the *chaukidar*, and in sending him off with the prepared story before anyone else can tamper with him. It follows, therefore, that the distance from the village to the *thana*, and the interval of time occupied in sending off the *chaukidar*, and necessary for the journey on foot, are points of real importance which every criminal court is bound to examine with care. The distance is generally several miles at least, and

*chaukidars*, especially at night and in the small hours of the morning, do not hurry themselves. To an Indian, time is of no importance. The absence of a First Information Report nearly always means that those who would naturally be the first to make a complaint are themselves involved in the commission of the crime, or are anxious to cover it up.

Every class of crime ought to be reported. But if the offence is what is called 'non-cognisable', the police merely enter a summary of the report, and are not called upon to act. All serious crimes are 'cognisable', and in such cases a police officer—generally a Sub-Inspector—goes at once to the spot to investigate. The word 'detective' is almost unknown to criminal law in India, but the 'investigation officer', as he is invariably called, corresponds to what is known in England as the detective, or the Inspector in charge of the case. Something has been said in the Introduction about the methods adopted by investigation officers, and the points and intricacies of a mysterious case can never be fully appreciated unless one understands these methods. In this case, as has been said, there was no report, and the investigation came long after the crime, if crime there was.

Time passed. Kalyan Singh and his wife did not return, and the existence and disappearance alike of Bhagwati seemed to have been forgotten. Some of his friends believed that he had gone to the War with one of the numerous labour parties, where *paise* and adventure were to be found, and it was said that Sundar, another servant of Musammat Janki Kuer, had distinctly said so to several people. Sundar protested that he had never said so because he did not know, and that he had merely conjectured it in the most casual way as the possible explanation of the mysterious disappearance. But it was hardly likely that Bhagwati would suddenly have departed in this way, even for the novel and adventurous exploit of joining in the War over the 'black water', without saying a word to his family or to his fellow-servants, and without making any disposition of his property or communicating with his brother, Behari Lal. His pair of shoes, which, although of trifling value, he would have been almost certain to take with him, because Indian servants are very careful of their possessions and resent having to buy, had been seen and identified. The brother was by no means disposed to rest content with the assurances he had received about Bhagwati's safety. To Behari, Sundar, who made many inconsistent statements, re-

peatedly asserted that he had gone off with a woman with whom he had been carrying on, although he already had two wives. It was on this account, he said, that no hue and cry had been raised, or serious search set on foot; and the suggestion of his having gone to the War, though consistent with his restless and adventurous disposition, was only put forward to prevent the necessity of telling the truth, and thereby bringing shame on his name and family.

Behari Lal was much disturbed by this story, but gave it little credence. He could not understand what sort of liaison his brother could have formed without his knowledge, nor why he should have suddenly gone off in this way, without his clothes, except what he worked in, and without his one pair of shoes. He returned to the Musammat's house again and again with sullen obstinacy, repeating his inquiries, and getting the same vague and incredible explanations from the other servants. He eventually traced the shoes to one of the servants, Jhoku, a low-caste *chamar*, from whose house he recovered them. All that Jhoku would say was that he had received them from Sundar, after Bhagwati had left. This was strenuously denied by Sundar. Behari Lal also saw what he believed to be his brother's *lathi*, or long stick, which every Indian villager carries with him wherever he goes, both as an offensive and defensive weapon, for the frequent emergencies of sudden quarrels. He espied it in the hand of Jhoku's mother. This was awkward for Jhoku, but here consideration of *caste* came into play. He would not claim the *lathi*, saying that the *chamars* must have used it for their pigs. Bhagwati and his brother belonged to one of the Brahmin *castes*, and *chamars* are one of the lowest of the 'untouchables'. The idea of his *lathi* having been used for stirring up pigs would be abhorrent to a man of high *caste*, and if he handled it, or used it again, and the fact became known, he might have trouble with his caste-fellows.

To the ordinary intelligence it would seem that Behari Lal had come upon some promising clues, and that if he really wished to learn his brother's fate and, in the event of foul play being established, to bring the culprits to justice, he had every inducement to report his suspicions to the police. However, he continued in the state of stolid indifference and dilatoriness so characteristic of the average Indian villager, and allowed the matter to sleep. This, of course, contributed to the difficulties which were

experienced in the subsequent investigation. The cold weather passed, and it was getting well on into the following year and the gathering heat before anything occurred. During this time rumours of one kind and another were started, and, not unnaturally, the local enemies of Janki Kuer, once any sort of suspicion against her reached their ears, saw the chance for which they had been waiting. Eventually they set the police in motion, and a Sub-Inspector came down to the village to make independent inquiries. He clearly had a difficult task. Not only had the lapse of time blurred any clues which might occur to him, but it had allowed so many strange stories to obtain a footing that it was difficult to decide which of them was worth following up. The behaviour of Behari Lal made it doubtful whether any reliance could be placed on his story about the shoes and the *lathi*. And the enmity against the Musammat was so pronounced in the quarter from which his information had originally come as to make an experienced officer sceptical about the statements made to him. Very slight pressure by the neighbours, and a few pence from an interested partisan, will induce a villager to make almost any wild statement to an investigation officer.

The common rumour in the village was that the Musammat had procured the murder of her own servant by two of his fellow-servants, with the assistance of the *chamar* Jhoku, who worked in the fields, and who was alleged to have taken part in the removal and burial of the corpse. It was even reported that Jhoku had admitted as much. This was unlikely. But common rumour in an Indian village, especially in the case of a mystery of old standing, although mixed with much which is palpably unreliable, is very often not far from the truth. The inventive genius of the villager generally loses itself in a mass of corroborative detail, and is not seen at its best in entirely imaginative works of construction. It deals in half-truths. Every experienced officer fully understands this, and his usual method of starting to work is to settle down in the village for a few days as its guest, and to gather round him knots of men whom, by methods best known to himself, he induces to talk with a certain amount of freedom. The villagers soon find that sullen silence does not pay. Sub-Inspectors like to be handsomely treated, as well as to be held in awe, and a prolonged visit, necessitated by a parsimonious supply of information by his hosts, is apt to become embarrassing and expensive. 'Permission to be present'—a favourite paraphrase

of the police for a familiar operation—at the little gatherings which an investigation officer collects round him under a shady tree, is given to all who seem likely to be able to add to the general fund of information; and the villager who does not avail himself of the ‘permission’ is not unlikely to find himself the object of attentions by the officer which cause him uneasiness. He is usually apprehensive that he may suddenly find himself lying under a vague suspicion, and confronted with awkward little pieces of circumstantial evidence and threats of arrest or other forms of compulsion, against which he knows that it will be useless for him to struggle. From the mass of contradictory gossip and rumour which the officer slowly and patiently gathers in the course of these little conferences, he is generally able to extract a sort of least common denominator which puts him on to a solid line of inquiry.

If there were any truth at all in the common village rumour in this case, it was certain that one motive only could have led the lady, or her satellites, to perpetrate such a cold-blooded and apparently pointless murder. The dead man had no possessions and no enemies, and there was no obvious reason why anyone should desire his death, except to close his mouth. By degrees the Sub-Inspector learned that there were villagers who were prepared to prove that Janki Kuer was in the habit of receiving visits at night from a lover during her husband’s absence on business. It was said that a young and wealthy *zemindar*, named Bishan Singh, who lived in the neighbourhood, and who used to call openly by day for the purpose of making collections for some charitable object, would ride over after dark, leave his horse at a distance in charge of one of the lady’s servants, and stay the night, leaving again on horseback in the early hours of the morning. It was also said that letters were carried from the village to Bishan Singh as soon as Kalyan Singh left home, and that Sundar was the go-between. The visits of Bishan Singh had become more frequent just about the time of Bhagwati’s disappearance, when he continued to arrive as usual at night, and carried a revolver, and a short sword or dagger. The probable origin of this story did not inspire the Inspector with confidence in it, and the only persons who could provide direct evidence of it were the servants of the lady herself. Some of them had been heard to complain that they were not getting enough to eat, and in this direction the Inspector turned his attention.



Here he heard that the body of the missing man had been disposed of within the boundaries of the village, on the property of Janki Kuer, and that a certain disused shed on the cultivatory holding would repay a search. Accompanied by one of the members of the rival party, who may be described as 'the other side', the officer went to the shed. There he found a bad smell, in which there was a distinct suggestion of decomposed flesh, and also a portion of earth which was exceptionally soft and yielding to pressure. This was somewhat odd, because if Bhagwati had been murdered, and buried there, it had been done so long ago that this sort of indication was not to be expected. The place was opened up, but nothing was discovered. Nor did it appear that the smell was any stronger when the earth was opened than it had been when the surface was undisturbed. This, however, did not deter the Sub-Inspector, who was now satisfied that he was on the eve of important discoveries which might make his reputation in the force, from sending a specimen of the soft earth to the official chemical examiner. The analysis was favourable, and it seemed probable that someone who had been watching the Inspector's labours had removed the remains and substituted fresh earth. Efforts were made to discover the spot to which such remains as there were had been removed, but they produced nothing. It seemed clear, however, that the *chamar* Jhoku, in whose possession the shoes were alleged to have been found, was the next scent to be followed. Only sweepers and *chamars*, and other men of similar low caste, could be induced to handle a corpse. Upon Jhoku therefore the Inspector next turned his detective energies. His efforts were not long in bearing fruit. What they were did not appear, but this class of man is, as a rule, an easy victim to an experienced and determined police officer. Finally, and probably not until after various threats and other forms of persuasion had been used upon him, Jhoku confessed, and disclosed an almost incredible murder in broad daylight, in the house, which must have been known to all the servants, and in which he himself had filled the modest rôle of a sympathetic spectator and corpse concealer. This, by the way, is the invariable line taken by a subordinate who is the first to confess. He represents himself as an involuntary participator, generally compelled by threats to play the subordinate part assigned to him, and threatened with his life if he tells. It is often a nice question whether his statement amounts to a confession which he can be

brought to repeat before a magistrate, but the police take no risks, and whether the man is going to be charged or to be put up as a witness, he is invariably sent to a magistrate in order that his so-called confession may be recorded, and that his evidence may, in any event, be formally taken, so as to make it dangerous, if not difficult, for him to attempt to depart from it.

Jhoku began his sensational story with a circumstantial account of the intrigue between Musammat Janki Kuer and Bishan Singh. To this extent he could only have been repeating what he had been told, and what had long been current gossip in the village. Jhoku, in order to disarm criticism on this head—for these men are curiously quick in foreseeing difficulties about their stories, even if the difficulties are not put to them by the Inspector—added corroborative details of his own. He was able to say that when Bishan Singh came on one of his nightly visits he was admitted by the indoor servants and went upstairs, and that he, Jhoku, used occasionally to follow him to the living rooms on the upper floor. He gave no reason for having done so, but his motive for saying it was probably not unconnected with the further statement that Bishan Singh used to put his sword and revolver away in a niche in the wall. In this way, he said, he would be able to recognise them if he saw them again. The importance of this will be evident. But the improbability of anything of the kind having been seen by Jhoku himself was considerable. He was only a *chamar* and an outdoor servant, who did odd jobs and helped to look after the animals. There was no conceivable reason why the other servants should allow him to enter the house at night during clandestine visits to his mistress by her lover, and this part of the story was certainly a pure invention. It was almost certainly put into his statement by the Sub-Inspector. The first thing a police officer, with a 'find' like Jhoku in his hands, thinks of is to secure what he considers corroboration of the statement or confession, in case he wants to use him as an approver; and he is often guilty of the mistake of over-keenness, and of inserting statements, by way of supposed corroboration, of which he does not see the weakness, thereby laying his best witness open to easy attack.

During the night preceding the day when Bhagwati was last seen alive, continued Jhoku, Bishan Singh had ridden over. He had found difficulty in obtaining an entrance to the house. He had called to Raja Ram, one of the older indoor servants, who had

come to the door to open it, and who had been forbidden to do so by Bhagwati. Eventually the young *zemindar* had been admitted, and had stayed the night. He had left in the morning without his short sword. Nothing had occurred next day until noon, when, as Jhoku was sitting with Bhagwati and a young *ahir*, or cowherd, named Baldeo, Raja Ram came running to Bhagwati crying that a big snake had been discovered in the house and asking him to come and try to kill it. Bhagwati had gone off with Raja Ram, who told the other two to go back to their work. Some little while afterwards, while he was with Baldeo looking after the bullocks, Jhoku had been called to the house. He was taken upstairs to one of the uninhabited rooms which led to an inner room or closet. There he saw the dead body of Bhagwati, who had just left him, cut up in pieces, which were lying on the floor of the inner room. Sundar and Raja Ram were there with another man whom he did not know, and they all three appeared to be engaged in separating the limbs of the dead servant. Raja Ram had Bishan Singh's sword in his hand. The place was in a ghastly mess, the floor being covered with fresh blood which was still oozing from the body of Bhagwati. In the outer room stood the Musammat, directing operations, and showing no more concern than if it were an ordinary occurrence upon which the men were engaged. There was a sack there with some string, and Jhoku and the unknown man were ordered to tie the pieces of the bleeding trunk in the sacking, and take it away and place it in a corner of another room, and when it grew dark to take it out and bury it in the ground in the disused shed. Having removed the corpse as they were told, they were then ordered to get some water and wash the floor. Janki Kuer remained, and herself saw these orders, which she had given, carried out. After all signs of the crime had been removed except the sack, Janki Kuer had left in the bullock cart to join her family, while Raja Ram had supervised the disposal of the remains in the evening. The body had been buried at the spot where the Inspector had had the earth dug, but shortly before the Inspector's arrival Jhoku had been ordered to assist in removing the decomposed remains to another place, where he understood they had been burned and re-buried. Some traces of burned bones and a small piece of sacking were unearthed by the officer from a hole in the ground near the spot which Jhoku pointed out to him, and Jhoku professed to identify the sacking.

Such was the story of the murder as related by the only available witness, and such was the material upon which the Inspector now had to work. Apart from the other features of the case, the position of Jhoku was such that, having regard to his admitted complicity and his long silence, it was impossible that any court would accept his evidence against persons of apparent respectability unless it was amply corroborated. The character and position of the principal accused made the story on the face of it almost incredible. It would be difficult to persuade any one that a young and gentle lady of good birth and education could have taken part in such a horrible crime. Still less did it seem credible that she would have had the nerve to witness the act of butchery. If there were any truth in the suggestion of a clandestine intrigue it seemed the height of folly, and a useless precaution, to destroy the man whom her husband had set to watch. If anyone was likely to do that it would surely be her paramour. But there were other ways less ruthless and risky, familiar to Indian communities, in which Bhagwati's mission as a tale-bearer might have been circumvented, and there was nothing to indicate why he should have been left alone all day and then murdered in cold blood. And it was curious that Bishan Singh's sword should have been used. Although its identification by Jhoku, if this could be arranged, might be treated by a court as some corroboration of this part of his evidence, it involved the conclusion that Bishan Singh had deliberately left it behind for the purpose, and that he was in the confidence of the principal culprit. But men do not present their mistresses with weapons to commit murder for them which they are not prepared themselves to commit. The sword was a dramatic touch which lent colour to the story of the intrigue and provided convincing proof of the motive, but, on reflection, it had the appearance of being over-done. Nor did it seem probable that a cold-blooded murderess would leave the scene of the crime with convincing evidence of it still undisposed of, and so run the risk of a mistake on the part of stupid servants which would hopelessly involve her, but which she could obviate by staying to see the thing out to the end.

Moreover, as we have seen, the very enmity which had fostered the suspicion against the lady, and had led to the discovery of such evidence as the police now had, would rightly be held to throw doubt and suspicion upon the source from which that evidence came. The method adopted of carrying out a

murder so impudent in its daring, and so desperately dangerous, was clumsy and unconvincing. The idea, even, of the snake would almost certainly have suggested to its author a more insidious and not uncommon way of getting rid of the man, and a ready explanation of his sudden end. A total and unexpected disappearance, without any attempt to account for it, followed by indifference and silence, would be thought by intelligent criminals to be certain to provoke inquiries and to create an awkward atmosphere of mystery. Baldly put, the whole story seemed too good to be true, and there was as yet little to support it. The belated testimony of a low-born menial, who belonged to a class notoriously easy to persuade to give false evidence, and whose alleged knowledge of the circumstances could only have been acquired from criminal complicity, would never be accepted as sufficient to condemn a woman for an act as unwomanly as it was possible to conceive. This, or something like it, must have been the train of reasoning in the Inspector's mind as he reviewed the situation.

In the course of a search through the house he came upon what looked as if it might prove to be a valuable piece of evidence. He found some passionate love-letters and verses in a box which was said to belong to Janki Kuer, written in the Hindi character, in the handwriting of an educated man. One or two of these which were put in evidence at the trial, and translated, are of sufficient importance to be reproduced. They were undated and unsigned.

PEARL OF BEAUTY—My love to you. We have not lived in vain. May the Gods protect you, and be propitious for my next journey. If this should not reach your hands, and the faithful one is not seen here, I shall know. He must not speak with anyone here. I will see to it. Otherwise he will return. The condition of my horse is the cause of much anxiety to me. He will require attention. I hope much that it will not be long. You should make all ready. The thought of you is always with me, and your absence is much felt. In my dreams your eyes shine like stars. But what is this to our waking hours, when the sky is clear, and the clouds have passed away for a season? May God keep you in good health. Your fragrant beauty dies not, but spreads itself like the petals of the flower which opens to the heat of the sun. Who can forget the fragrance of warm lips and the soft, round beauty of your ripe pomegranates. I shall be there as soon as the weather is propitious, and the gods permit. There is a great anxiety about your condition. Inform me about it, and all will be well.

I envy the cups that touch thy mouth, when thou putttest them upon the kissing place.

I will leave thee,

When I have gently stolen from thy lips  
Their sweetest gifts of Nectar, to allay  
The raging of my thirst, even as the bee  
Sips the fresh honey from the opening bud.

That lip, and thy heart, and thy cup must be preserved from others, and kept for me.

Dashed by the dews of thy kisses, the flower of love blooms ever in my heart.

Before taking any further step the Sub-Inspector satisfied himself that he could obtain evidence to prove that these love-letters were in the handwriting of Bishan Singh. He then sought an interview with Kalyan Singh. It is hardly possible to convict a wife of infidelity if her husband is convinced to the contrary. And unless this foundation were surely laid, the structure sought to be raised upon it would never hold together. He gave Kalyan Singh to understand, without disclosing what the evidence was, that there was grave reason to believe that Janki Kuer was concerned in the undoubted death by violence of the missing Bhagwati. If the Sub-Inspector had been corrupt, as some of them unfortunately are, the case was one out of which he might have expected to do rather well. Kalyan Singh and his wife, like most wealthy *zemindars* in similar circumstances, would be easily persuaded to pay a large sum to get the case dropped for want of sufficient evidence. But he knew the enemies of Janki Kuer were on the watch, and would take steps to see that a charge was preferred, and he seems to have been honest, and anxious to secure a conviction, though he was guilty, as will appear, of a piece of stupidity which he tried to cover up by making false statements in his evidence at the trial. On the other hand, Kalyan Singh showed a bold front. He indignantly denied that there was the slightest ground for the aspersions sought to be cast upon his wife's honour. He denied that he had given any special instructions to Bhagwati, beyond telling him to carry out his ordinary duty of sleeping near the entrance, in order to give an immediate alarm in the event of an attack by dacoits. He said that he was

equally unable to account for the story of his having put Bhagwati to watch his wife, and for his mysterious disappearance. If his servants chose to murder one another he could not prevent it, and it was no business of his. The local enemies of his wife had often vowed vengeance for their defeat, and they were, in all probability, the real culprits of the crime which they were trying to fix upon his unfortunate wife.

Eventually it was decided to make Jhoku an approver, and to run a case based on his evidence, relying on the various items of corroboration provided by the finding of the remains, though these could never be proved to be those of the missing man, the finding of the shoes in the possession of Jhoku, the fact that Jhoku was able to identify the sack and the sword of Bishan Singh which had been used for the crime, the secret visits of Bishan Singh and his amorous correspondence. Musammat Janki Kuer and her two servants, Raja Ram and Sundar, were eventually put upon their trial. The case was in many ways an exceptional one, and attracted a good deal of attention. In the end, of course, everything turned on the amount of credence to be given to the story told by Jhoku. He might have been put upon his trial himself. His confession did not go the length of implicating him in the actual murder. There is no such thing in the Indian Penal Code as an 'accessory after the fact'. But it is a crime to do any act with a view to removing or concealing the traces of a crime, and there was no question as to Jhoku, on his own story, having aided in concealing the corpse. There was enough to hang the accused, if Jhoku were believed. It is not necessary, though it is usual, in India to insist upon some independent corroboration of the evidence of an accomplice. In this respect the law of evidence differs somewhat from that in England, though in practice the difference is very slight, because sessions judges almost invariably require corroboration. But in the majority of criminal trials there is no jury, and the judge is free to take a view of his own, and to accept the evidence of an accomplice, if he is satisfied of its truth. Jhoku's story might have been accepted if the case was otherwise perfectly straightforward. But it was not. And it was here that the Sub-Inspector, by a foolish lack of candour, himself created difficulties for the prosecution.

Having decided to turn Jhoku into an approver, he also decided to hide him. In this he was right. Jhoku, as already pointed out, belonged to a class of witness who is frequently tampered with,

and he might easily be got at during the interval which had to elapse before the trial. So he was sent off to some distant village to stay with a family until he was wanted. Who these people really were was never properly explained, but Jhoku was certainly not a free agent. The cat was let out of the bag during his cross-examination at the trial. When he was asked about his residence he became shifty, and indulged in prevarication and the sort of nervous hesitation which generally shows that a witness is trying to conceal something. In the effort to steer between the truth and what he had been coached to say he became almost incoherent. Either he did not know, or had been forbidden to say, where he had been living. It appeared from what he said that the wife of the head of the family where he stayed was an aunt of someone, but whether she was the aunt of Jhoku or the Sub-Inspector, was not clear. He had gone off by train in the company of a constable. This was a reasonable precaution for the sake of safe custody. But the constable's movements were mysterious and he appeared to have left the train at some intermediate station. But where this happened, and how Jhoku eventually reached his destination, were alike shrouded in mystery.

When the Inspector came to give his evidence, the facts about this side issue became still more bewildering. He professed to know nothing about the place where Jhoku had gone, and the impression which he tried to convey to the court was that some member of Jhoku's family had undertaken to look after him, and had asked that a constable should be allowed to travel with him, as there was fear that some personal violence might be attempted upon him. This incident was typical of the way in which experienced members of the police force in charge of a case will go out of their way to create unnecessary difficulties. There was absolutely no reason why the Sub-Inspector should not take steps to have Jhoku looked after and protected from interference till after the trial. It is often done, when there is occasion for it. And there was also no reason why, if he had taken this prudent course in the ordinary discharge of his duty, the Inspector should not say so, instead of trying to cover it up. It is a singular thing, but well known to those who have had experience of criminal cases in certain parts of India, that police officers, who are exceptionally clever at judging the conduct of others, and thereby arriving at sound conclusions in the investigation of a case, seem quite unable to form a judgment about their own conduct, and



harbour wholly unnatural and exaggerated fears that some perfectly innocent course pursued by them will lead to unfavourable inferences being drawn and bring down upon them severe comment. One can only suppose that they have been, from time to time, so severely criticised or discredited by a sceptical tribunal for telling the truth that they occasionally seek refuge in subterfuge, imagining that they ought to hide something which has really very little, if any, importance. The consequence is not infrequently, as it was in this case, just the opposite of what they expect. Nothing is more calculated to make a trial court suspicious, especially in a criminal case of difficulty, in which the evidence is not very strong, than an indication that the investigation officer, in giving his evidence at the trial, is not telling the truth. Once there appears to be anything not quite straight about the investigation, the judge begins to be sceptical about the evidence on which he is asked to convict. There is a constant disposition, especially amongst Indian judges, to find fault with the methods of the police, and for this there is often only too much reason. So that when the judge trying the case begins to distrust the investigation, he becomes particularly astute in finding points of criticism, and reasons for doubt, about the positive portions of the case presented on behalf of the prosecution. Whatever would have been the result of the charge against Musammat Janki Kuer, it is quite certain that the foolish conduct of the Sub-Inspector about the custody of Jhoku was sufficient in itself to raise serious doubts in the mind of any tribunal as to whether the main story could be accepted. This was particularly so in a case in which it had to be acknowledged that there was no certain proof that the human remains which had been traced were, in fact, those of the missing man.

Kalyan Singh and Bishan Singh were both called for the defence, and their evidence was a complete denial of the alleged intrigue between the latter and Janki Kuer, upon which the prosecution relied. Bishan Singh admitted the authorship of the letters, but denied that he had ever written to Janki Kuer. He also denied the night visits to the house. He declared that he had had a mild flirtation with Musammat Devi, who was also carrying on with a friend of his, and that he had sent her the verses at her request, to enable her to copy them or make what use of them she pleased in her relations with her real admirer. It was pointed out to him that the reference to the horse con-

tained a hidden suggestion that the animal would require looking after when he paid his visit to the house, and that other parts of the letter indicated that a messenger was to be sent to his place. But he replied that the love-letters were addressed personally to Musammat Devi, more by way of a joke than anything else, and that they were intended only to make her believe that he was really in love with her and no more. His explanations failed to carry conviction to those who heard them, but, in the face of his evidence and of that of the husband, it was impossible to say that the allegation of the intrigue was established.

In the end the Sessions Judge wrote a long judgment indicating that at the back of his mind there was a shrewd suspicion that the story told by Jhoku was not far from the actual truth, but he came to the conclusion that the case was not proved to his satisfaction and that the accused were entitled to the benefit of the doubt. This was the view generally taken by those concerned in the case, and no further light was ever thrown on the fate of Bhagwati. But there were undoubtedly many servants in the employment of Janki Kuer, and others living in the village, who could have told a good deal more if they had chosen to open their mouths.

### III

#### THE DEAF AND DUMB CORROBORATOR

WE shall see again and again in these tableaux of village crime how common faction fights are and always will be in India. Local feuds, which are certain, sooner or later, to break out into violence and bloodshed, accompanied as often as not by death, differ fundamentally from the sudden and temporary quarrels which arise out of cattle-trespass, irrigation, jealousy, and conubial infidelity, and which also generally end in a fight. They go deeper, are more calculated, and last longer. They are often handed on from one generation to another. Nor do they in the least resemble the communal or religious disputes which are so serious and widespread, and which have increased so disastrously since the introduction of the constitutional reforms of 1920. These latter are in their essence racial and political, and are generally led or fomented by educated agitators. The faction cases to which I refer have no merely sporadic or accidental origin, and they are not necessarily communal, though they are not always free from communal animus. They belong to a class of party warfare in the social life of the community which is probably inherent in the habits and customs of the people, and are as old as India itself. They may be due to the hostility, original or inherited, of two rival local *zemindars*, each struggling to assert his superiority over the other. The instincts and ideas of the vast majority of Indians are feudal. The ownership of land, which generally means, certainly in the wealthy, several whole villages, or several shares in villages, confers power, influence, and reputation; all of which is summed up in that great but fateful word *izzat*.

Every Indian, from the highest to the lowest, has his *izzat*, or name, to keep up. After his son, it is his most cherished possession, and if it is injured he is an unhappy man. And in such a sensitive race there is nothing easier to injure than the *izzat*. The injury

may be purely imaginary, but it is no less keenly felt. A *zemindar* whose *izzat* has been hurt thinks that he has lost ground with the *sirkar*, or, in other words, with the collector and district magistrate of his native place. And if he really has, woe betide him! Moreover, he will neither forget it nor forgive the man who did it. I once asked a big *zemindar* why he was content with such a small return from his wealth, which was all land, and which involved constant troubles and anxieties with his tenants as well as with his agent, or *karinda* (a class who often suffer from over-enthusiasm, and are a source of much trouble to their employers), when he could get a much bigger income by investing in some of the many successful industrials. His reply was immediate and instructive. Paraphrased into my own English, because he probably answered me with a subtly phrased combination of hints and suggestive interrogatories, his reply was: 'Income is not everything. I should have to give up much of my land. My neighbour would certainly buy it to his own advantage. I should lose many tenancies and tenants. My men and followers would decrease in number and my local position would suffer. Where would my party be?' In a word, his *izzat* would be injuriously affected. And amidst his tenantry and circle of villages there is one village which to him is above and beyond them all in importance and in sentiment: the ancestral village; the ancestral house and home. Therefore, when his rival *zemindar* begins to assert himself and to gain in *izzat*, he is deeply offended. It is a grievance to be nursed, and he is ready to fight for his rights, and to resist the least attack, however small and indirect, upon his possessions and authority, and to regard with a resentment no less intense even the idlest threat. Thus it often happens that between two neighbouring landowners there exists the most deadly rivalry and hatred. When two ancestral homes clash there is bound to be trouble, and the district magistrate awaits the outbreak with amused curiosity and some anxiety, because it will probably appear where and when it is least expected.

This hostility, which may have begun with their ancestors, invariably permeates the tenantry and the servants, all of whom form a party round their *zemindar*, and manifest their feelings towards the members of the other party in a hundred little ways in their daily life. Some dispute or argument may occur over a field or some matter of cultivation, or even over a purchase which each of the two *zemindars* is anxious to secure for himself,

and a word of abuse or assault upon some quite insignificant servant will follow. No member of a party is insignificant for the purpose of giving or receiving offence. At once the case is taken into a criminal court and fought with deadly determination, and often with much expenditure upon lawyers, before the magistrate. Witnesses are multiplied, and once they have appeared in the array of either one side or the other, they are for ever stamped with the party label, and the incident will be brought up against them in cross-examination on every future occasion, however independent they may really be. The *zemindar* on the losing side loses *izzat*, as well as a good deal of cash, and the animosity becomes still more acute. 'I will see you another day!' is the usual form of salutation, and it is generally construed as a threat to murder. It is exchanged between the *karindas*, who enter thoroughly into the spirit of the fight. Contrary to the practice in ordinary theatrical performances the principals do not usually appear. In many cases one never sees the rival *zemindars* who are really responsible for the fight. They would lose *izzat* by appearing in court. The history of most party factions is plentifully illustrated by litigation, which is sometimes almost the sole occupation and certainly the most absorbing interest in the lives of many *zemindars*.

The hostility may be of modern growth. As every reader knows, many villages are split up into shares, which are held by various shareholders. One may have fallen on evil days, and mortgaged his share to a *bania*, or moneylender, or to a successful commercial man possessed of cash and desirous of acquiring land and local influence. A mortgage suit is brought; a decree is obtained, and the share passes into the hands of the new man—a sort of *nouveau riche*. As often as not he has a very uncomfortable time of it. Shareholders of villages do not welcome strangers to their circle. And out of this small beginning, a long future of bitter feud may be confidently predicted. Or it may happen that two otherwise friendly and aristocratic *zemindars* of high caste and ancient lineage will fall out over a woman. I once dismissed two counter-charges which two rival *zemindars* had made against one another. They came before me in appeal after the proceedings had been going for eighteen months! It was all over a woman. So far as I could see, both parties were equally to blame, and neither of them had done anything criminal, except falsely charging the other. The number of witnesses and other persons con-

cerned in the cases passed belief. The proceedings had reached colossal proportions, and must have caused both sides considerable pecuniary embarrassment. I declined to allow the public time of the courts to be further occupied by their fratricidal frolics, and ordered both to be bound over to keep the peace. There was every indication of a fight looming on the horizon, with its accompaniment of broken heads and further criminal proceedings. I described them as 'a pretty pair!' I was afterwards informed that the only corresponding word in the Urdu tongue, into which my judgment had to be translated, was '*khubsurat*', or beautiful; generally applicable to flowers, scenery, and ladies! I never heard what the translator made of it.

One might multiply the causes and variations of mental temperature by copious illustrations. But the result is generally the same; a crime of violence, sooner or later. An experienced police officer will never fail, on arriving at the scene of a village crime of violence which he has been called to investigate, to inquire, if he does not already know from his 'History Sheet', or from his recollection of former cases, what factions, or parties, exist in the village. These village factions are the most prolific of all the causes which give birth to the false reports and false accusations so constantly made in India, to which many devote themselves with the skill and enthusiasm which others will bestow upon a favourite game. When a village feud of this kind exists, the task of an officer investigating a village crime is anything but an enviable one, except, perhaps, when a death has occurred, and even then there are sometimes insuperable difficulties. Whatever divisions exist among the villagers, if someone is murdered in a fight, all are agreed that one death amongst the community is enough, and that another at the hands of the *sirkar*, or hangman, is to be avoided at all costs. I once asked a famous Indian judge whether it was vain to hope that advice and entreaty from the Bench would pour oil on the troubled waters, and induce the community to abandon their animosities and to live happily together as friends. And I suggested that some form of memorial stone, erected in the village on the spot of the last fight, recording the death of the victim and the punishments of those convicted and a statement of the homes ruined, would act as a permanent warning. His reply was that they would probably regard it as some mad freak of the collector's, or as a grim and meaningless joke, and that, forgetting all about the stone's history, they

would probably use it as the *rendezvous* for the next pitched battle!

Many years ago the village of Andauli was split into two factions by one of these feuds between two local *zemindars*. The village was a small one, and neither *zemindar* was particularly wealthy or important. But they were determined, and at deadly enmity with one another. Each had his own following, which steadily increased in number and resolution, until it became likely that the trials of strength which succeeded one another in faction fights on the land, and in petty litigation in the courts, would one day end in murder or bloodshed. Ram Sarup was an elderly and prominent member of one faction. He had already been married twice, but to his great grief he had not succeeded in raising any progeny, and he had recently married a fresh young wife, Musammat Dulari. He lived with her in a small mud house in the residential part of the village, and kept one servant, Bhikhari. The physical attributes of these two important members of his household presented a singular contrast. The Musammat, who was, of course, a great deal younger than her husband, possessed considerably more vitality, and was gifted with a striking figure. Those who have visited Indian villages are well aware that the spectacle of female beauty is rather rare. Probably those of high caste, who may possess a certain refinement, and others who are naturally good to look upon, are kept well out of sight. The average Indian cultivator's wife, who works in the fields or lives a life of drudgery in the house, grinding the corn, cooking the food, and cleaning the vessels, grows old before her time, and her face, which is extremely black as the result of generations of exposure to the rigours of the sun, is scored with wrinkles and often with marks of some skin disease. Her teeth, a feature in the Indian which is naturally rather distinguished, and even remarkable, especially in the young, show gaps, and other signs of age and neglect. But every now and then, in the crowd which gathers round your car when you stop to pick up water, you will notice a young woman, almost invariably carrying on her hips a half-naked baby and two or three other little children clinging round her legs, with a face of wonderful beauty. Her hair is, of course, jet black, and her dark eyes shine with an extraordinary lustre, and seem to speak, half wonderingly, half shyly, with a soft but eloquent appeal as they gaze at the female members of your party. But the outstanding point in her beauty, which strikes you more

than anything else, is not her features, but her form. Naturally, she has no complexion worth speaking of, even if you can give it the name at all. It is only the fair-skinned women of the hills who can claim to possess a complexion, not the woman of the plains. But the graceful figure and movements of the well-made good-featured young woman of the plains, even after she has begun to present her lord and master with a quiverful, seem to be the poetic ideal of line and motion. Musammât Dulari was finely moulded with bold outlines; she had a pair of flashing eyes, and the sinuous, seductive movements of her body when anything pleased her were calculated to turn the head of many an amorous swain.

Bhikhari, on the other hand, was a freak. Hardly three feet high, he looked almost as broad as he was long. He lolled along on his two little bowed legs, with a heavy, rolling gait, swinging a pair of arms whose enormous length, as they hung from his diminutive body, gave him the appearance of a chimpanzee. His tongue generally hung out of his mouth, for which it seemed much too big. Born out of due time, he could neither speak nor hear, and his strangely acute intelligence, which seemed to galvanise his poor frame into ceaseless activity, sought expression in a code of signs which only those could understand who took pains to converse with him. There was no danger of Bhikhari becoming a rival of his master for the favours of Dulari.

One dark night in the cold weather the Musammât rushed from her house shrieking that her husband had been murdered and all her jewelry looted. The villagers were at once aroused. On arriving at the scene they found the dead body of Ram Sarup lying on his *charpoy*, or string cot, badly cut about. Leading from the inner room, where he had been sleeping with his wife, covered up from the cold, was a short, dark passage communicating with a smaller room, which had a door opening out into the yard. In the room Bhikhari was soundly sleeping. His sleep was simulated, but he was with difficulty aroused, and he rubbed his eyes with astonishment when he saw the crowd of villagers in the hut. On hearing of the disaster which had overtaken the household, he moaned and wept aloud. The Musammât seemed less distressed. A diligent search was made, but nothing of importance was found except some indications that the shutters of the room which had been entered had been broken from outside. Nothing was done to open up the ground of the room, as it appeared from



the statement of the woman that the thieves had gone off at once with whatever they could lay their hands upon, and that they had not stayed to ransack the hiding-places where most villagers store their treasures and savings. But Ram Sarup was not understood to possess much beyond what he had lavished upon his wives by way of personal adornment. His sole luxury had been litigation. The *chaukidar* was dispatched to the nearest police station to report a case of dacoity, or burglary, with murder, and soon after midday the Sub-Inspector arrived. He was considerably mystified. There was evidence that force had been used to obtain an entrance, but neither inside nor outside could any of the ordinary indications of a visit of a gang of dacoits be discovered, and it occurred to him that the modest dwelling of Ram Sarup was hardly worth a raid by a gang of midnight robbers. The police officer's attention was then directed to the existence of the notorious feud in the village, and the idea of a vendetta began to formulate itself in his mind. He took statements from a number of the villagers, who were able to tell him about the various threats which had been made, from time to time, against the life of Ram Sarup, of the *zemindar* to whose party he belonged, and of other members of the party. Contrary to their usual wont in such cases, the villagers seemed communicative and zealous in looking for evidence, and showed none of that sullen obstinacy so characteristic of a community which has taken the law into its own hands and has resolved to shield the culprits. A list of the property was duly made out and a search was made, but it produced nothing. Careful investigation was made into the movements of the men belonging to the other party with no result. For a time suspicion fell upon the dwarf, whose cunning and agility were equal to a crime of robbery and violence, and it was declared by those who arrived first at the house that they had every reason to believe that he had been shamming when they found him apparently in deep sleep. But there were no signs of blood about him, or leading to his room, and not only was it impossible for him to have got rid of the loot in the time, but the death of his old master was clearly the last thing he was likely to desire. Eventually the Sub-Inspector was compelled to report a complete failure of his investigation.

When this happens, after the commission of a crime of any importance, the investigation is generally taken up by an officer of higher rank and sometimes by the English Superintendent him-

self. Now it chanced that at that time the Superintendent had in his employment one Bhagwan Das, a policeman of exceptional character. He was a master of disguise, and possessed great histrionic gifts; detective work was to him as the breath of his nostrils; he had brought off some astonishingly successful coups in the service of his master, to whom he acted as a sort of orderly; and so long as it involved difficulty and danger, there was no adventure which he was not ready to undertake at his master's bidding. He would visit a village in one of his disguises, and remain there as long as he could without arousing suspicion, and gradually worm his way into the confidence of the inhabitants, who will generally, after an investigation has been closed, begin to open up about a crime of which they know more than they ought, to those whom they admit to their confidence. He was convinced, on this occasion, that if he could get into contact with the dwarf, and into his confidence, he would eventually obtain a clue. He persuaded his master to allow him to make the attempt. He set out, disguised as a *faqir* or wandering priest and mendicant. He made a long stay in the village of Andauli, where he found the dwarf still living in the service of some friend of his deceased master. He returned to the Superintendent with an important discovery. Owing to the difficulty of obtaining evidence, and to the necessity of effecting a surprise, he persuaded his master to take a shooting tour, and casually to visit the village on a given date, when it was arranged that a body of plain-clothes constables should also be in attendance.

Confident in the assurances of his old and trusted orderly, the Superintendent decided on a bold course. He arranged to arrest the suspected persons first, and to investigate the case afterwards. On his arrival at the village the Sahib was hospitably received and entertained. This is invariably the case when a Sub-Inspector comes to make a prolonged investigation, but he is not always so welcome as a Sahib on a shoot, who prefers to 'pay his footing'. The *darogha*, or Sub-Inspector, is not unwilling to be entertained; he, and his horse, and his constables. He regards it as due to his position, or *izzat*, and he knows full well, if the villagers are inclined not to be communicative, that he will outstay his welcome, and that they will tire of the entertainment, and begin to provide him with useful information. But it was not in any official capacity that the Sahib was entertained, and the hospitality with which he was treated was solely due to that spirit of

courtesy and generosity which the Indian will always show towards a Sahib who treats them well, and which is characteristic of the Oriental. On this occasion the villagers, before long, had reason to regret their hospitality, and they showed their resentment in a manner which has few parallels in the annals of crime.

Towards evening, amidst a considerable gathering of villagers brought to the scene by curiosity, the Sahib was introduced to the mute by the *faqir*, who still preserved his disguise. After some desultory conversation, the little mannikin waddled round the circle of interested spectators, hesitating now and then opposite one of the young men in the crowd, and leering at him with an indescribably malignant grimace. As soon as this prearranged ceremony had been completed, the plain-clothes men pounced upon the objects of the dwarf's attentions, and four stalwart young men suddenly found themselves under arrest. The villagers then realised that they had nursed a serpent to their bosom, that their hospitality had been abused, and that the Sahib was a police officer in mufti. But before they had fully taken in the situation, a procession was formed and set off, with the dwarf at its head, to the house where Ram Sarup's widow still resided with a female relative. There Bhikhari proceeded to fling a plain-clothes constable on to the *charpoy*, and forcing the Musammat to lie by the constable's side, went through the pantomime of thrusting a cloth into the man's mouth, and belabouring him with imaginary weapons, pointing the while to the four men under arrest. He then placed a lamp in a niche in the wall, and led the way to a *charpoy* in the room at the other end of the passage, whence a view of the *charpoy* where the other two lay could be had through the chinks in the door. Here he lay down, and watched intently through the apertures. Thereupon the Sahib charged the woman with the murder of her husband. Dulari, whose attractive features had been showing agitation during these proceedings, threw herself into a frenzy of rage and fear, and retaliated by pointing an accusing finger at the little dwarf. The Superintendent, who was not unprepared for this emergency, remarked that it was rather late in the day for this suggestion, and, producing a list of the lost property, inquired whether any of it had been traced. Bhikhari, taking in the situation, and renewing his demonstration, began to dig vigorously at the earth in a corner of the living room. Implements were fetched, and the ground was dug up, and there,

concealed deep down in the soil, was a bundle containing cash and the missing articles. The Musammat, being now thoroughly frightened and unnerved, threw up the sponge. She fell at the Sahib's feet, and confessed that one of the young men, a fine, strapping youth, had been her lover, and had persuaded her to allow her husband to be murdered. This was where the false scent of the village feud came in. He had belonged to the same party as Ram Sarup, and, in order to get rid of him, had pretended to join the opposite side. In this way he had managed to persuade the other three to join him in an act of vengeance upon their enemy. With her assistance, they had got into the house and killed her husband, while she had been compelled, against her will, to create the appearance of a forcible entry, and to assist in burying the property. She had also been compelled to give the alarm as soon as they had made off. As is usually the case in such confessions, she represented herself as an unwilling agent in aiding and abetting the murder. Without loss of time the Superintendent went to the house of the young man, and there a search disclosed a still blood-stained hatchet concealed in the thatch of the roof. It seemed that few, if any, of the villagers knew of the intrigue, and it had never occurred to anyone before to suspect one of the deceased man's own party. The Musammat was taken before a magistrate, who duly recorded her confession. She stuck to her story, and was made an approver.

But a serious difficulty arose in the mind of the Superintendent on the question of the necessary corroboration. The woman was undoubtedly either an accomplice or a principal in the commission of the crime. Nothing is better understood amongst sessions judges and amongst the police, than the necessity of supporting the evidence of an approver with some independent corroboration. Bhikhari's testimony was ample corroboration if it could be accepted, but the Superintendent was puzzled to know how it could be given. He did not want to put up a case and have it turned down upon a technical point, or thrown out, after a conviction, by the Court of Appeal, especially when he was satisfied that it was a true one. Here was an instance in which his *izzat* would be injuriously affected if the charge failed. He was well aware of the indignation still felt in the village about the trick which had been played upon it, and which had led to the arrest and arraignment of four of their number whom they believed to

be innocent. The Superintendent did what may occasionally have been done both before and since, though it may seem strange to English notions. He consulted the judge, who was an Englishman, and a friend and neighbour of his. He laid the facts hypothetically before him, and told him that he had a case of the kind and that it was causing him anxiety. The judge said that if the case came before him he should feel no difficulty in allowing the deaf and dumb man to be sworn, and to be put through a pantomimic representation of what he alleged he had seen. If he, the judge, were wrong about it, he supposed that the High Court would correct him on appeal, and that no injustice would be done. The *zemindar* of the party hostile to the deceased man provided funds for the defence, which was based on the contention that the charge was a false one got up by his enemies against at least three members of his party in order to injure and ruin them, and that the alleged intrigue had no existence in fact, and had been dragged in to give an appearance of reality to the story told by the woman. The lawyer instructed for the defence did his best to persuade the Court that the evidence of a deaf and dumb man could not be recorded according to law; that it was worthless in any case; and that any attempt to elicit the truth by the ordinary methods from a man who could not speak, and who therefore could not be cross-examined, being out of the question, it was contrary to the ends of justice to act upon it. But the judge held that the witness must be permitted to re-enact by pantomimic gesture all that he was professing to have seen on the night, and accepted the story, and convicted the accused. This view was also adopted by the High Court, which confirmed the death sentence. I cannot say whether the case is recorded as an authoritative ruling, but it is not the only one in which some kind of pantomime has been allowed in court. Some years ago, at Hertford Assizes, when a man was charged with murder where he and a woman had agreed to commit suicide together and the man had survived, the learned judge, thinking that the jury did not clearly take in the situation, directed two police-sergeants to go through the performance of pretending to let off a revolver each at his own head in the well of the court before the jury box. It was related that one of the sergeants, after pulling the trigger, dutifully fell to the ground with a loud thud. It was also related that the judge and the two sergeants had held a dress rehearsal during the luncheon interval. It happened also that on

one occasion in India, when hearing a rape case, the Indian judge, finding the prosecutrix somewhat diffident about detailing her story, and anxious to know which of two alternative forms of violence had been practised upon her, directed four of his court *chaprasis*, in their gorgeous red uniforms, to take up the two alternative positions on the floor of the court. He was subsequently informed by a superior authority that this conscientious form of realism might well be considered by those in court, to say nothing of the unfortunate *chaprasis*, to have been carried beyond the bounds of ordinary decency.

Musammatt Dulari and her lover found that the course of true love ran smoother when the husband was alive, and that forbidden fruit was, after all, the sweeter. Their elaborate plot had succeeded up to a point, but had not produced the results for themselves which they had hoped. It was never known what methods Bhagwan Das had used for eliciting the story from Bhikhari. It seemed that the dwarf was an honest fellow, and had only feigned sleep and kept silence out of genuine fear. But it was another triumph for Bhagwan Das. Neither the *faqir* nor the dwarf were ever seen in the village again.

The villagers never forgave the outrage committed upon their hospitality, and were convinced that the whole story had been concocted by the police. This belief is easily engendered in the mind of the average villager, and once entertained is very difficult to eradicate. They turned out with many followers, some five hundred strong, carrying *lathis* and agricultural implements, to stop the execution. This might have been a very serious matter. In a country where so much depends upon the strong arm of the law and the reputation for firmness as well as justice on the part of the authorities, open defiance is a source of considerable anxiety and danger. If it succeeds, the confidence of the community in the strength of the British Raj is completely shaken for a time; acts of looting, bullying, theft, lawlessness, and disorder break out in all directions, and in a scattered and populous district the police are unable to cope with the situation until their strength is much increased. The foresight and determination of the district magistrate saved the position. He sent a special force of police armed with bayonets, and provided with ball cartridges. Their mere presence was enough to cool the ardour of the crowd and to prevent an attempt at rescue and an ugly riot. Such a display of force at an execution is almost without

parallel. The Musammat emerged triumphant. She was treated as having been duped by the police. Her personal attractions were too much for some of the more influential inhabitants and enabled her to live down her particularly mean and contemptible conduct in peace and comfort.

## IV

### THE DOUBLE-BLUFF

It is related that the way was laid for the English victory in the naval battle of Falkland Islands, in December 1914, by setting a trap for Admiral Von Spee, the victor of the battle of Coronel, in the nature of a 'double-bluff'. Admiral Sturdee had been sent to Port Stanley with a squadron which included two fast battle-cruisers. A wireless message was then sent to the *Canopus*, directing her to proceed to Port Stanley where she would be quite safe, as the new guns for the fort had arrived. The message was intercepted and discredited by the Germans, as it was intended to be. They took the course which it had been hoped they would. Von Spee decided to attack the *Canopus* at the port, and steamed to his doom. The following story illustrates another kind of 'double-bluff' not by any means infrequently adopted by the Indian villager to satisfy his thirst for revenge. In this instance the result was the reverse of what was intended, but the story, every incident of which actually happened as related, shows the remarkable lengths to which these simple, uneducated folk will go to achieve their savage ends in a matter of quite minor importance.

A village feud in which each of the two parties were led by a local *zemindar*, as explained in the preceding chapter, was at the bottom of this astonishing tragedy. This may explain how it was that Jats and *chamars* were found fighting on the same side. The Jats are a strong-minded, independent, and somewhat turbulent caste, who are proud of their descent. The *chamars* are among the 'untouchables'. They are really workers in skins. They have no compunction in touching a dead animal, a thing impossible to the ordinary high-caste Indian, and they deal with offal and dirt. They perform the rough and dirty menial tasks of the village, and in a general way there seems very little difference between them and the sweeper caste. They are said to be pre-



pared to eat almost anything. Almost invariably they occupy their mud-built dwellings in a quarter of the village set apart solely for them. But they are not wanting in a certain sort of independence and courage. When a *chamar* is thoroughly aroused he can be a very terrible person, and his language is of the most lurid description.

Early one morning—to be exact, at two o'clock A.M.—one Chaman, a cultivator of the *faquir* caste, arrived at the *thana* with two or three Jat companions. He had come from a small village some ten miles away. He had a sad tale to relate. He said that there had existed in the village, for some considerable time, great enmity between his *zemindar*, Jaswant Singh, and a neighbouring *zemindar*, whom he named, and that he and his friends had for a long while been persecuted and threatened by the enemies of Jaswant Singh, including six Jats, whom he also named, and that they had been joined by the *chamars* in the village, whom they had persuaded to side with them. He went on to state that, for the sake of causing annoyance and trouble to him, Chaman, the *chamars* of the village had recently collected, and continued to store outside his house, an offensive heap of manure and refuse. They had constantly been asked to stop storing the stuff there, as it was of no special advantage to them to do so, and their sole object was to annoy and insult. He and his brother, and others living in the houses immediately adjoining, had all protested, but without avail. On the previous evening Musammat Badamo, the mother of one of the *chamars*, had come to throw rubbish on the heap, and had been rebuked by Musammat Nathia, Chaman's wife, for doing so.

According to Chaman's report, Badamo had then broken out into *gāli*, or abuse. It is difficult to convey an accurate impression of what this means. The lung capacity of low-class village women and their staying power, when they are once provoked, pass belief. They usually possess harsh, rasping voices. They begin shouting abuse, at once, at what seems, but is not, the top of their power. This immediately provokes a similar outburst from their opponent, and is followed by a rapidly rising crescendo, until it seems that one of them must, before long, break a blood-vessel. Their fluency is extraordinary. They are never at a loss for a word. Nothing will stop them, and they seldom pause to take breath. In the course of a long wordy warfare between two women, both of them will continue, for a great part of it, shout-

ing at one another at the same time. At the back of the garden of the bungalow which I occupied for many years there was a small village, where two women, with whose voices I became sufficiently familiar to be able to recognise them, used occasionally to engage in one of these contests. On one occasion I remained smoking in my bathroom, which looked out in their direction, to hear how long they would last out. The controversy was evidently an exceptionally acute one. Other women joined in, on either side, from time to time, making a hideous chorus. Occasionally the men intervened and tried to persuade them to stop. This continued for two hours, when, although the noise had begun to show signs of dying down, I gave it up in despair, and listened no more. My servants afterwards told me that it went on for some time after I left the bungalow. On another occasion, when I was motoring, and stopped for water, I heard a similar battle between two women, who were nearly two hundred yards distant from one another. I was near enough to one to discover that the main grievance was some pigs who had been committing trespass. My chauffeur, who could only understand a portion of what they said, but very much more than I could, told me that the trespass appeared to have been committed a long time before, earlier in the day. On this occasion the quarrel continued in my hearing for forty minutes, and was still going on, by fits and starts, when I left. The language used on these occasions is of the foulest description, and mostly in a *patois* quite beyond the understanding of the best Hindustani scholars. It invariably deals with the parentage and moral character of the other side, and particularly of her father and mother, one of the most irritating sources of abuse. Everyone who has any knowledge of India is familiar with the term *sala*, which only means 'brother-in-law', but which conveys the suggestion that the speaker has had relations with the sister of the man to whom it is addressed. The expression *betichod* is equally common, but more direct and disgusting, and means that the person addressed has had relations with his own daughter. These terms have become so natural a part of the ordinary currency of abuse that they have ceased to bear their real meaning, or even any meaning at all, and are used in just the same meaningless way in which the English term of abuse 'bloody' is used. But in such a torrent of abuse as I have here attempted to describe, it is not the words which are used which lead to personal violence, but the exasperating pertinacity with

which the attack is continued. A large number of sudden fights which end in murder begin with a mild outbreak of abuse of this kind over a mere trifle, and no one who has heard two women in full blast can feel surprise that sometimes an unfortunate husband who returns tired and hungry from a long day in the fields, looking forward to his evening meal and a quiet rest, is goaded into madness and, losing self-control, resorts to violence, and inflicts serious injuries, and even death, upon his wife.

Chaman reported that, owing to the replies made by Musammat Nathia to Badamo, Badamo's son, who was no doubt expecting trouble, came up and gave Nathia what Indians call 'a slap'. The latter then retired to her house, weeping, and Chaman came out to the rubbish heap, and rebuked the young man for his brutality. Thereupon the *chamar* lifted his *lathi*, or heavy brass-bound stick carried by every villager, and struck him a hard blow. This treatment from a mere *chamar* would be a great insult, apart from the ordinary offence created by the assault. A large number of men then came up from the side of Badamo to support the *chamar*. Chaman named, in all, six *chamars* and four Jats, who proceeded to belabour the unfortunate Chaman and his brother Aman, who came to his assistance, with others, including women, from his side. Chaman said that he was knocked down, and knocked about as he lay on the ground in a bleeding and semi-unconscious condition. Seeing the plight in which he lay, his old mother-in-law, Musammat Kapuri, who was sixty years of age, flung herself upon his recumbent form, in the hope of saving his life. She received the remainder of the blows which were being rained upon him, and the life was beaten out of her. This is a by no means unusual occurrence in village fights of this nature. Quite an appreciable number of women are killed in this way. Chaman therefore recorded at the station a charge of the murder of his mother-in-law by the six men whom he named.

About two hours after Chaman had finished his report, a number of the *chamars* arrived from the village, accompanied by the *chaukidar*, and made a report against Chaman and Aman, and some of their relations, for a riot and unlawful assembly, combined with personal violence and injuries inflicted upon some of the *chamars*. The nature of this report will appear hereafter. It is a singular feature about these occasions when, after a village quarrel, both sides appear at the police station to make a report

against their respective opponents, that the truth is often found to lie with the side which is later in reaching the station. This may be due to the fact that their injuries are the more severe, and that it has taken them longer to get a sufficient number together who are willing to make the journey; it may be due to the fact that they delay in order to secure the attendance of the village *chaukidar*; or it may be due to the fact that the party who are making a false report also make special efforts to be first in the field. On this occasion the Sub-Inspector had already left for the scene of action when the second party arrived, and he was not aware of the second report.

On his arrival in the village he proceeded straight to the house of Chaman. It would be too much to say that an investigating officer arriving to make an inquiry in an Indian village was ever surprised at anything, but what he saw was different from what he had expected to see. The notorious rubbish-heap stood some little distance away from the entrance to the block of dwellings where Chaman lived. He found no blood-stains there. This in itself did not amount to much. The rapidity with which these are removed, and with which all signs of washing are dried up by the sun, constantly increases the difficulty of detective work, especially where there has been a party fight. Members of the police force are hardly ever within hail when a crime has been committed, and much can be done before they can be fetched from the nearest *thana*. The villagers are generally so connected, directly or indirectly, by ties of blood, marriage, or interest, with both sets of combatants, that plenty can be found to confuse the traces, while none are concerned to stop this interference with the course of justice. Further, the *mukhia*, or headman, and the *chaukidar* are so often committed to one of the sides that their report of what they observed when they reached the spot can seldom be trusted. What was more remarkable was that no signs of any recent struggle could be detected.

The house occupied by Chaman, as is so often the case, was one of a little knot of buildings which might all be part of one dwelling with several doors, but which were in fact separate houses, the principal entrance to which was through an opening in a mud wall, leading into a fair-sized courtyard, in which stood a *nim* tree. Aman, the brother, lived with his family in one of these houses, and Wazir Ali, a *bhisti*, lived with his family in another. The dead body of the old woman was lying inside the

courtyard, close to the *nim* tree. Patches of blood were found under the tree, and there was a considerable quantity of blood on the ground where the body lay. An examination of the route from the rubbish-heap to the entrance disclosed nothing, and the soil did not look as though anything had been done to clean it. On examining the body, the Inspector found that it had been almost pulverised and bore a great number of terrible wounds, which must have been inflicted by a series of smashing blows. It appeared to him that these were more than would be likely in the case of a person who had been killed, in a sense, accidentally, through having thrown herself in the way of blows intended for another, unless her assailants had vindictively beaten the life out of her, or, as sometimes happens, continued to deface and destroy the frame after life was extinct. But he also noticed injuries which could hardly be accounted for by blows, and, in particular, marks on the neck, as if something had been pressed tightly into the skin. This suggested strangling. It was clearly a case for a post-mortem examination, and he despatched the body in the charge of one of his constables to the Civil Surgeon. He then took the statements of Musammat Nathia, and of Aman, Aman's wife, and the *bhisti*. He obtained the names of some alleged eye-witnesses, but found that their stories did not hang together, although they were so vague that no alternative explanation of the crime suggested itself. Several of them, however, agreed in stating that the old woman had not been present at any time during the fight. Finally, someone happened to mention that she was nearly blind, and was in the habit of receiving assistance when she walked about. His growing doubts as to the truth of the story told by Chaman now strengthened into absolute scepticism.

After a while, Ram Das, the *chaukidar*, appeared, stating that he had just returned from the *thana*, whither he had gone in pursuit of the *chamars*. He reported that they had gone there to make a report to the police of a riot and a series of injuries committed by the party to which Chaman belonged, explaining that there were two factions of Jats in the village, and that each was led by a rival *zemindar*. He had not been in the village at the time of the fight. He had returned to it about half-past nine in the evening, and had heard about it. He had gone to the spot. No traces of the recent fight then remained. He had entered Chaman's compound, and there he had seen Musammat Nathia, with her now deceased mother, Musammat Kapuri, sitting under a *nim* tree near

the house; the *bhisti's* wife was lying on the ground. Nathia had told him that the latter was unconscious, and could not speak. The expression 'unconsciousness', in the mouth of an Indian, does not mean, as it does with us, complete loss of consciousness; the word used is *behosh*, or without your intelligence; in other words, 'silly'. Ram Das had also seen Chaman, who had a wound on his head. He added that he had afterwards seen Chaman, in company with the *bhisti*, going in the direction of the residence of Jaswant Singh, the *zemindar* who was at the head of their faction. He had then gone home and taken his food, which accounted for an interval of about two hours, and had left for the *thana* about midnight. He had not gathered sufficient information himself to make a report, but he had heard that Chaman, and also a party of the *chamars*, had already gone off there. He had overtaken the latter, who had arrived after the Sub-Inspector had left. They had been told at the *thana* the substance of the report which had already been made by Chaman, which the *chamars* had declared to be entirely false, and which had thrown them into a state of great indignation. He had immediately left the *thana* again for the village, and he said that the *chamars* were also returning, but that he had come alone, without waiting for them. Ram Das' account of what had happened in the village was, of course, hearsay, but the statement that he had himself seen Musammatt Kapuri alive after the fight was over, and that Chaman and the *bhisti* appeared to have visited Jaswant Singh before going to make the first report, were important developments which could hardly be inventions. The whole story seemed straightforward enough, and it confirmed the Sub-Inspector's suspicions that he had been started upon a false scent. It necessitated a departure upon a new line of investigation, and he sent Ram Das off to find the *chamars* on their return from the *thana*, and to bring them to him.

When the *chamars* arrived the Sub-Inspector held a sort of *punchayat*, or village meeting, sitting under a tree, with some of those who had taken part in the fight, and other witnesses, all gathered round him. By degrees he extracted what appeared to be the true story. There had been a big row, in which *lathi* blows had been exchanged, and that was all. The parties had been separated, and no lives had been lost, nor had any serious injuries been inflicted. It had arisen out of an incident so trivial that it seemed incredible that any fight could have resulted. Some boys had been playing a game called *dudwa*. What its particular merits were did

not appear, but it had developed into a quarrel. A boy had slapped Shere Ali, a son of the *bhisti*, who had cried and called his father. Phul Singh, a peaceable and respectable old villager, had witnessed the occurrence from his house, and had come up and separated the boys. For this well-meant act of intervention, Phul Singh was struck on the head by the *bhisti*. Phul Singh asked the *bhisti* why he struck an old man, so the *bhisti* struck him again in order to enforce his argument, calling to Chaman and Aman to come to his aid. High words followed, and, one by one, like snails after a summer shower, out came various members of the rival factions. Everyone knows what this means. The original cause of the dispute was of no consequence to any of them. They only saw a chance of supporting their friends, and of dealing a blow at their enemies. The last to arrive knew least about it, but were the hottest in the fight. The air became thick with *gāli*, and blood began to flow. Eventually a separation of the combatants was effected, though with as little cause as that which had brought them together. Both parties left the field much dissatisfied at the cessation of hostilities, and with the inconclusive nature of the finish. The only thing left to either party now, according to the ordinary rules of the game, was to get the other side implicated in a criminal case. If there is one thing in which the villager has more faith than in anything else, it is in the power of the English criminal courts to do justice, and the only form of justice in which he believes is the vindication of the rights of his own side. This is not necessarily a narrow view, because whatever his own side may have done is quickly forgotten, and it is certain that the other side has been guilty of more than one act of injustice in the past, which is never likely to be forgotten. The enemies of Jaswant Singh's side went off, breathing threats, and promising to launch a case of violence and robbery against the other party. The threat was absurd, and was not really likely to be carried out. But Chaman was not to be outdone. There had been an undoubted riot, and the infliction of serious injuries might easily be charged against himself and his friends. Rigorous imprisonment, the Indian equivalent of 'hard labour', was not an impossibility. He determined to out-Herod Herod. If the criminal law was what the *chamars* wanted, they should have it. He had the usual, though not always long-lived, belief of his class in his ability to persuade the tribunal. His mother-in-law was old, feeble, and blind, and a burden upon his resources. She might be willing to

sacrifice herself in such a cause. In this respect, he may not, in his report, have exaggerated her heroism, though it is improbable that he consulted her. So he, Aman, and the *bhisti* set to work to murder the old woman in her home, in the presence of her daughter, and under the sacred *nim* tree. They strangled her with string; they knelt upon her breast till her poor old bones broke under the pressure; and they belaboured her head and her body with *lathis*. No one came forward either to try to save the wretched victim, or to denounce the foul crime. One eye-witness professed to have seen nearly the whole thing, but it was doubtful whether he was telling the truth. The post-mortem fully established the manner of her death, and there was enough circumstantial evidence to seal the fate of the three culprits, who were sentenced to death.

The strength of the case for the prosecution lay in the palpable honesty of the *chaukidar* and the straightforward manner in which he gave his evidence. This is a great asset, because it will be clear to every one that a case of this sort causes considerable anxiety to the trial court. There is not unlikely to be a good deal of false swearing and inconsistency of detail in the evidence; and the very extravagance and inhumanity of the proposition to which the prosecution is committed are calculated to create hesitation in the mind of the court, which will be unwilling to accept it if there is a scintilla of doubt. The presence, therefore, of an independent official witness who appears to have acted honestly, and to be free from any bias or undue influence practised upon him by one of the parties, invests the story with credibility.

There was nothing to show that Chaman had consulted Jaswant Singh, the *zemindar*, before he had murdered his mother-in-law. There would have been no time. But it is a fair assumption that a decision had been previously come to on the point, against the contingency of a favourable occasion arising for planting a false charge of murder upon some of the opposing party. This is the only plausible explanation of the fact that Chaman went out of his way, and risked the delay, to pay his visit to Jaswant Singh before going to the *thana* to make his false report. He probably wanted to know whether he could still count upon Jaswant Singh's support, and required some assistance in framing the report which he was to make. Jaswant Singh would almost certainly suggest the addition of names of his enemies who might



well have been present, even if they were not, and who might as well be hanged for other misdeeds if not for that.

A petition on behalf of the accused for pardon, or for the commutation of the death sentence, was rejected by the Governor of the Province. In accordance with the prescribed procedure, it was then forwarded to His Excellency the Viceroy. Every condemned man in India has two independent sources to which he can appeal for the exercise of the prerogative of mercy. The Viceroy in this case commuted the death sentence of each of the three men to transportation for life. No reasons are published. They can, of course, be gathered from a perusal of the petition, if a copy of this can be obtained through official sources, or at least some sort of inference can be drawn. The cynic might say that the lives of three men is a high price to pay for that of a decrepit and practically blind old Hindu widow, if the principle of 'an eye for an eye and a tooth for a tooth' is to be strictly applied. But it is not likely that this was a consideration which weighed. It may have been that the crime was thought to be one of those which are, in some measure, palliated by being the result of traditional ideas received and acted upon by generations of uneducated and partly unbalanced minds. Or it may have been believed, and this is the most likely cause, that Jaswant Singh was, morally speaking, the chief culprit who had instigated the half-savage perpetrators. It generally happens, in this class of village crime, that the real principal is able to keep in the background and to escape the just penalty of his wire-pulling and inhumanity. Such considerations might well be applied to the cases of Aman and Wazir Ali. But they seem far-fetched in the case of Chaman, who had killed in cold blood his own mother-in-law, whom he was bound by all the ties of family and humanity to maintain and protect, and who did it, not in any spirit of righteous indignation or in vindication of any principle, but with the express and wicked intention of attempting to procure the judicial murder of entirely innocent persons. And when all is said and done, if capital punishment is right and necessary, no three men ever more richly deserved the gallows.

## V

### THE MYSTERY OF THE PLOUGH

THE solution of the problem of Har Narain's death depends almost entirely upon whether he was really ploughing his field early one October morning. The mystery has never been solved. There are at least four persons who know the truth, but nobody else knows who those four persons are. The brutal, cold-blooded murder of poor old Musammat Kapuri, related in the preceding chapter, was an attempt at the 'double-bluff' which failed. The way in which old Har Narain met his end was either a 'double-bluff' which succeeded, or a daylight murder in the open fields duly proved by eye-witnesses. But no one knows which it was, except the privileged few, and even they are unknown. The annals of crime can hardly contain a neater judicial puzzle. And yet in themselves the circumstances were simple and ordinary enough.

Har Narain was a cultivator in the village of Phulat. He was believed to be about sixty-five years of age, but no one knew his real age, and we must leave it at that. He lived with Musammat Jumna, the widow of his great-nephew, and her two young boys. He was childless. Musammat Jumna, at the time of Har Narain's death, was expecting another child, although her husband had been dead nearly ten years. She alleged that the father was Har Narain, but she was the only one who said so, and nobody believed it. The statement is not without its bearing upon the mystery.

Har Narain was an occupancy tenant of an influential *zemindar* named Amar Singh, who was accused of his murder. There was no love lost between the two. And here it may be as well to say a word or two by way of explanation about tenancies in this part of the world. Tenants in India, who hold a very different position from that of tenants in England, are almost everywhere divided into two classes. A large proportion of them possess, according to

immemorial custom, a right of permanent and hereditary occupancy in the land so long as they pay their rent. The amount of rent depends on local custom, not on competition. In some cases they are entitled to hold at permanently fixed rates, and their right is heritable and transferable. In other cases the rent can only be enhanced on certain grounds specified by law. Such tenants can only be ousted by a decree of court on proof of non-payment of rent, and without a decree of court the landlord cannot obtain a higher rent. Cultivators of this description are, in fact, co-sharers in the land, possessing limited rights of property. Similar rights may accrue by mere lapse of time. A tenant who, by himself or his ancestors, has held during twelve years uninterrupted occupation of the land acquires a permanent right of occupancy. Cultivators of this class are usually far better off than those who have no such privileges. They have more cattle, better houses, better clothes, and larger areas of land. Below this class comes the non-occupancy tenant who has agreed to pay an enhanced rent but who has no security of tenure, and more nearly resembles the ordinary annual tenant in England. The struggle to secure on the one hand, and on the other hand to prevent, the acquisition of an occupancy tenancy by effluxion of time is often acute, and at times not unattended by crime. The right to succeed to occupancy tenancies is regulated by statute, and confined to survivorship or inheritance in the family, and to certain youthful relations who can be proved to have taken a share in the cultivation during the life of the last tenant. This provision often raises some nice questions of fact, and some not very nice attempts to murder.

If Har Narain could survive until one of the boys took a genuine share in the cultivation of the holding, which extended to about two hundred acres, the tenancy could be continued after his death. Otherwise there was a risk that it would lapse and revert to the *zemindar*. Amar Singh, therefore, had a distinct interest in Har Narain's decease. Those who are versed in the life of Indian villages know what this often means. Moreover, in the previous August, Har Narain had brought a false charge against Amar Singh of having damaged his crops. This had been dismissed, and the mutual soreness had been much intensified. It so happened that only a few days before Har Narain met his violent end, Amar Singh had begun proceedings against him for having falsely and maliciously prosecuted this unfounded charge.

This fact, again, tended not a little to increase the mystery; unless he was arranging a piece of what is called *peshbandi*, or the preparation of an argument in advance to meet an anticipated emergency (and in that case he could have done something simpler, at less cost), he would hardly have gone to the trouble and expense of bringing a civil suit against him if he intended to murder him.

One morning, early in the month of October, when the rains would be drawing to a close, if not actually over, though their effect would still be operative through the humidity of the soil, Musammat Jumna arrived at the *thana*, which was five miles distant from the village. It was about eight o'clock, so she must have left the village soon after six. She was accompanied by Ganga Sahai, the village *chaukidar*, and one Mangat. She had come to report the murder of Har Narain, early that morning, by the *zemindar* Amar Singh and his nephew Kalyan. She gave some account of the relations between the *zemindar* and the deceased, the details of which, though inaccurate, might reasonably be ascribed to a desire to make the position clear, rather than to an attempt to tamper with the truth, beyond a certain degree of exaggeration, which under the circumstances was perhaps natural. She asserted that on the previous evening, about the hour of the evening meal, which might be a little before or after seven o'clock, Amar Singh had sent a messenger to Har Narain to summon him to his *baithak*, or that place in his residence where a *zemindar* usually sits to talk with visitors, and to transact business. On returning home, Har Narain had related that Amar Singh had threatened him that if he went the next morning to plough his field he would be beaten on the spot. There was no special reason, as will be seen, why he should have gone to plough that day, and she did not say that it had been his intention to do so. But in spite of the threat, Har Narain had gone particularly early that morning, namely, on the rising of Venus, which fixed the hour at about three o'clock. He had gone alone, she said, taking with him his two bullocks and his plough. Before sunrise, one Girwar, a cultivator residing in another village, had come to her house, and told her that he had seen Amar Singh and Kalyan beating Har Narain with a *lathi*. He did not mention that anyone else had been with him, and also seen it. The old man had fallen down, but he did not know whether he was dead. He had told her to go and see. This she had done, and had found Har Narain

lying dead with his head smashed in, and she had therefore come to make her report. This report, while not lacking detail relating to the animosity existing between the two men, a topic upon which the ordinary villager, and particularly the women, are always extremely eloquent, and also relating to the curious incident of the night before, gave very little detail of what she had seen at the field, and omitted, as we shall see, an important detail about her own movements from the time when Girwar had arrived at her house.

The Sub-Inspector, after taking Jumna's statement, went straight to the field and made a thorough inspection. A certain amount of ploughing had taken place, but the land was wet and in certain places almost water-logged as the result of the recent heavy rain. One furrow across the field had been ploughed, and a short length of a second. At the spot where the ploughed portion of the second line stopped, nor far from the middle of the field—it was one of the peculiarities of this ploughing that it had been begun in the middle—lay the dead body of Har Narain. The injuries, as subsequently disclosed by the post-mortem, were in some respects peculiar. Death had been caused by a terrible fracture of the skull which had broken the parietal, temporal, and occipital bones, and had lacerated the brain. There were also two small, round, definitely punctured wounds in the head, one of which had entered the brain. Three ribs had been broken, and the chest appeared as though considerable pressure had been exerted upon it. There was another punctured wound which had reached the lungs. All these punctured wounds appeared to have been inflicted by a weapon with a long, sharp point, carefully directed. It was probable that the victim was lying down when they were inflicted. The blow on the head was almost certainly delivered by a *lathi* when he was standing up; but it might have been done, the doctor said, from behind. Not far from the body, the Sub-Inspector found a light implement consisting of a stick with a pointed blade attached to it, in shape not unlike a rough golf club, which the deceased was said to carry with him for the purpose of scraping his plough, but the doctor was positive that this could not have caused the punctured wounds, and no stains of blood were found on it. With the soil in the condition in which it was that morning, a good deal of scraping would have to be done to the plough. There was no question about this implement belonging to Har Narain, and it therefore looked

certain that he had taken it with him for some purpose connected with ploughing. But it would be quite possible for Musammat Jumna to have got hold of it, and either herself, or in collusion with a conspirator, have placed it on the field. Close to the body the Sub-Inspector found the plough, a yoke, and a pair of shoes. The latter might have been anyone's, but were said to have belonged to Har Narain. They provided a mystery of their own. If he was wearing his shoes when he left home, who took them off, and why? The bullocks had gone. They were not seen, nor heard of, by the Sub-Inspector that day, but the next day they were reported to have been found in the village by a boy, about midday on the previous day, that is to say, on the day of the murder. The movements of the bullocks, so far as they could be ascertained, were mysterious to a degree. The first furrow which had been ploughed looked regular and straight. The unfinished furrow looked as though the ploughing had been done carelessly, or rapidly, and had been interrupted two or three times, but there were no traces on the loose soil of anything like a struggle.

Further, there was no sign of the bullocks having escaped, or having made their way back to the village while yoked to the plough. No marks of any dragging of the plough were to be seen. There was a distinct impression in the soil, and other marks of their presence, including a patch of fresh-looking dung, which indicated that the bullocks had sat down there, and they must, of course, have been unyoked after the ploughing. Again, who unyoked them, and why? At what time they left the spot, which road they took, or how and when they got to the village, were points which were never cleared up. No one saw them in the course of their journey, or at any rate no one came forward to say so, until the boy came upon them, as he said, about midday. A regular search for them by constables was instituted during the forenoon, but nothing resulted from it. The police utterly failed to see or hear anything of them that day. Now bullocks are heavy, slow-moving animals. Their primary instinct, when they are wanted to work, seems to be to remain stationary as long as possible. When they are not being driven, they moon about in a slow zigzag, swaying their heads from side to side as though they were looking for something. They know their master, and if they are well treated by him, will respond to him sympathetically, and, like all animals, they know their crib at night and their usual feeding-place. Like most other animals, too, in hot coun-

tries, they seem to take after their masters, and to suffer from the usual tropical lethargy. They generally require a stick to galvanise them into activity or anything like a brisk walk. These observations are obvious, but they serve to emphasise the difficulty, if not impossibility, of believing that anyone could have found the bullocks in the village on the day of the murder without the police becoming aware of the fact.

A search was also made for Amar Singh and his nephew, but neither of them could be found. Warrants were issued for their arrest. According to the evidence of certain villagers, Amar Singh had been seen that morning in the village. He returned in a few days and gave himself up, stating that he had been absent on business, and had come back as soon as he had heard that he was wanted. He was able to prove that he had been away on business, and at the trial his advisers took the course of setting up a complete alibi, even during the night and early morning of the crime. This appears to have been a foolish proceeding, in any view of this case. If his alibi witnesses were all speaking the truth, this answer to the charge was conclusive. But it was by no means clear that they were not mistaken about some of their dates and times, nor even that they were above fitting in their statements as to the exact dates which they fixed for certain events to suit the exigencies of the defence. But the real controversy at the trial, and the mystery which still clings to the tragedy, was whether Amar Singh had deliberately murdered his tenant, or whether his enemies had arranged the murder in order to implicate him in a capital charge. His presence in the village on the morning of the crime was consistent with either view. On the one hand, it made his actual participation in the murder physically possible. On the other hand, in a carefully conceived conspiracy of which he was to be the victim, the authors could hardly have overlooked such an elementary detail that his actual presence in the village on the day was essential to their story, and it is incredible that they would have chosen a night when he was away on business. It was urged, moreover, on his behalf that if he had taken such elaborate precautions to effect the murder of his victim at an early hour, when hardly anyone was about, the further precaution of avoiding recognition anywhere in the neighbourhood during the morning was a comparatively obvious and simple one. The defence of an alibi must be attributed to the fatuous conduct of the members of the legal profession who defend these cases, and make such a

practice of running an alibi for what it is worth, in the hope that by some lucky chance it may impose upon the court, however long the odds may be against such a contingency, that they do not stop to consider how it may affect the argument in support of a really substantial answer to the charge, and they thus run two mutually destructive defences in double harness. Indeed, it is by no means uncommon to meet a case of riot and assault in which the same defendant is allowed to put forward the double defence of an alibi and self-defence, even when there is a reasonable chance of establishing the latter. This practice is so fully recognised that the failure of an alibi is seldom put to the debit of an accused person, when there is a reasonable alternative defence. In this case, as a serious factor in the calculations of probabilities as to where the real truth lay, it may be ignored.

Leaving for a moment the Sub-Inspector and the story told by Girwar, the alleged eye-witness to the murder whom Musammat Jumna had vouched in her report to the police, let us see what can be made of some of the side issues to this strange mystery. The substantial case for the defence was the old story of rivalry and enmity between two neighbouring *zemindars*, Amar Singh and Maharaj Singh. Applying the old principle of English justice in criminal cases, it was the duty of the prosecution to prove their case, and the defence were not called upon to show what had really happened. But there was a good deal in the evidence which was at least consistent with the alternative suggestion. If Musammat Jumna had been in the plot, and the agents of Maharaj Singh had laid wait for Har Narain when he left his house in the early morning, and had then set upon him and beaten him to death, it would have been perfectly easy for them to have carried the corpse to the field, hurriedly done a little ploughing, and taken the bullocks back to the village, arranging for them to be found later on. The failure to trace to the possession of either Har Narain or Amar Singh, at any time, a pointed weapon such as must have been used according to the medical evidence, was a difficulty in the way of the prosecution. Leaving on the field the yoke and the pair of shoes looked like an attempt, though a clumsy one, to identify Har Narain with the ploughing, and it might have been thought necessary if the bullocks actually used to do the ploughing were not his. This may seem a far-fetched argument, but the presence of these articles where they were found was difficult to reconcile with any view of the case for the prosecution. The case



for the defence did not rest merely on these suggestions. The evidence showed that Musammat Jumna was on very friendly, if not intimate, terms with Maharaj Singh. Several witnesses swore at the trial to circumstances pointing in this direction, and the *chaukidar* said that he had seen the woman visiting the residence, and that there was no doubt an intrigue between them, a particularly bold statement for any *chaukidar* to make without just cause. The woman's statement that her condition was due to her relations with the deceased seemed almost incredible. It did not follow that the villagers were right in their surmise as to her real paramour, though it is a point on which, in a village of not more than a hundred houses, public belief is usually well-founded. The feud between the two *zemindars* was shown to have been of old standing. Their fathers had been enemies before them, and had fought a big partition case. Maharaj Singh would probably welcome the opportunity of involving his enemy in a criminal charge; and if there were really any intimacy between him and Musammat Jumna, it brought him into close relations with all the main actors in the drama.

Ganga Sahai, the *chaukidar*, told a remarkable tale. He had been called, he said, about dawn, that is to say, very shortly after the news of the attack on Har Narain had reached Jumna, to the *baithak* of Maharaj Singh. There he found the Musammat, Girwar and Jhankoo, the two eye-witnesses, and some other persons. As to part of this statement there was a conflict between the *chaukidar* and Jhankoo, who said that he never went to Maharaj Singh's place at all. Ganga Sahai was then asked to go to the field and look at the body, and afterwards to go on to the *thana* and report a case of murder against Amar Singh and his nephew. He had done so with Musammat Jumna and Mangat. Now if this were true, Jumna had omitted from her report the important facts that she had first visited Maharaj Singh and had afterwards gone to the field, and that the *chaukidar* and Mangat had been with her when she first saw the dead body. She, on the other hand, denied that it had happened at all. She said that she had seen no one when she went to the field. She had started alone for the *thana*, and had come upon the *chaukidar* quite unexpectedly outside the village, sitting alone on a bridge. According to her, it was she who persuaded him to accompany her, which he had done without first going to see the body, though it was no distance away. Where, and why, they had picked up Mangat

she did not explain. The suggestion for the defence was that Mangat was an emissary of Maharaj Singh who had been detailed to see that Musammat Jumna made the proper report. According to the *chaukidar* he had left Maharaj Singh's place with them both. According to Musammat Jumna she did not know Maharaj Singh, and of course had not been to his *baithak* that day. Mangat did not confirm either of these witnesses, and declined to make any statement. The *chaukidar* did not correct, at the *thana*, any of the omissions in the Musammat's report. He said that it was her report and that he refused to accept any responsibility for it, except in so far as it mentioned that the man had been murdered.

A further interesting point is the hour at which the deceased took his supper the evening before he was murdered. Musammat Jumna originally stated that Amar Singh sent for him "at the hour of the evening meal". Now if the meal had been cooked and was ready at the time, it is very unlikely that Har Narain would have left before partaking of it. The cooking of the food is a serious matter. It takes time. Great store is set by its being well done. It would be cooked by Musammat Jumna for the whole household; and to leave it unconsumed, and to have another one prepared at some indefinite hour later on, would have involved waste, which is improbable when it could have been so easily avoided. One must remember also that the old man and the woman had to be up early next morning; the former was said to have gone to work at 3 A.M. After a long day's work it would be a great sacrifice, especially at the invitation of an unfriendly *zemindar*, to abandon the evening meal and to rush off on an empty stomach, leaving the preparation, the consumption, the cleaning of the vessels, and the night's rest, all to be compressed into a short three hours. For it was stated by the woman that Har Narain did not return till midnight. There was clearly no hurry at the other end, as he was away for nearly six hours, and he had not far to go. It is more likely that Har Narain ate his evening meal before he responded to his *zemindar's* summons. But the medical evidence showed, from the appearance of the undigested food still remaining in his stomach, that Har Narain had met his death within four hours of his last meal. This suggested that he had been murdered at, or near, his house, before midnight, and looked like a serious difficulty in the prosecution case. It was met by the statement of Musammat Jumna

that when Har Narain returned at midnight, he repeated to her what had happened at his interview with Amar Singh; cut fodder for the animals; and then took his meal and went to bed. One can only say that it does not sound at all probable, especially for a man of his advanced age.

But the more difficult question arises whether Amar Singh ever sent for Har Narain at all. Why should he have done so? The soil was not really ready for ploughing; that is clear. There is nothing to show that Har Narain intended to plough. But if Amar Singh intended to murder him early in the morning, he would hardly send for him and tell him not to go. It might be suggested that he hoped that the effect of doing so would be to make him go. But on this line of reasoning it would be rather a risky proceeding. Murderers often make a serious slip. But this is usually the result of some small oversight. They do not, as a rule, announce themselves beforehand or provide evidence by anticipation.

Did Har Narain go to plough? We have seen that, according to the Sub-Inspector, some of the field was under water, and much of it was unfit for ploughing. Evidence from the village proved that no one else had begun to plough, and that it was earlier in the year than the customary date for opening ploughing operations. Why was he in such a hurry to begin? And if he must needs begin before the soil was ready, why before the sun was up? It was rather an undertaking for an old man of sixty-five without any assistance. Was he not more likely to have taken with him either the boy who was to share in the cultivation, and who could help with the bullocks, or some menial assistance? This argument seems almost overwhelming if he had been really threatened overnight with a beating. The local witnesses at the trial were insistent in saying that it was years since he had done his own ploughing. It was also said that he had no bullocks of his own. He had indeed sworn in the case against Amar Singh, which he lost, that he had none. This would not prevent his hiring or otherwise procuring a pair, though the prosecution would probably have discovered this fact if it had occurred, and they did prove that the purchase of one had been registered by him in the previous September. But this was as near as anyone got to proving that he had two bullocks in October, or that he went to plough, except the statement of the partly discredited Musammat Jumna. It certainly was, if true, the oddest plough-

ing that ever was. On the other hand, it was never proved that he did not go.

We have now reached the stage when one naturally turns to the evidence of those who declared that they saw the accused committing the crime. The circumstantial evidence leaves one in a state of hesitancy and expectation. Circumstantial evidence, it has been often said, is the most satisfactory and convincing of all, if it is sufficiently strong. Not all lawyers and text-book writers agree about this, but it is certainly true of India. Eye-witnesses are so often partisan and coached; much of their evidence is inaccurate and contradictory, and it often appears to be entirely invented. It is freely said even to be invented for the case by the lawyer, or *karinda* or agent. Where eye-witnesses are concerned you may believe the narrative and suspect its truth, but distrust the narrator. Circumstantial evidence coming from a variety of different sources, some wholesome and some unwholesome, including isolated incidents in themselves insignificant, which fit into their places in the larger scheme irresistibly, like the small pieces of a large puzzle, and link up things in a way in which no foresight or subtle plan could have provided, forms a solid and stable structure when it is complete. It enjoys that superiority over eye-witness which dovetailed woodwork possesses over glue or tin-tacks. But in solving this mystery it was of no avail. Most of the independent incidents cut either way, and of the two contending theories, neither could be claimed to have been established by the force of circumstances. It rested, therefore, with those who charged Amar Singh with the murder of Har Narain to drive home the accusation by the direct evidence of unimpeachable witnesses, and this they failed to do.

They called Girwar and Jhankoo. Both happened to be tenants of Maharaj Singh. This was a bad start. Girwar's account of what he saw was a curious one. While going to his field to see if it was ready for ploughing—a matter which was obviously so doubtful that to go at three A.M. was a piece of eccentricity—he heard Amar Singh abusing the deceased. He said that he was then 150 yards away. Clearly he could not hear what was being said at that distance, but he was able to distinguish who the disputants were, so it must have been nearly daylight. He made for a well about forty yards away from them. On his way to the well he met Jhankoo, who was going to Girwar's village, and who

asked what the matter was. As Jhankoo could both see and hear as well as Girwar, the reason for this question was obscure. However, they went on to the well together and watched. All this took some little time, and the quarrel was already proceeding when Girwar first heard the men's voices. Yet almost at the identical moment when the two spectators arrived at the well, Amar Singh, addressing Har Narain with a foul epithet very familiar in village quarrels, was alleged by these two witnesses to have said, 'I told you last night not to plough'. Then turning to Kalyan he said, 'Kalyan, beat the *sala*!' Of course he would address his nephew by name, the cynic might observe, when two witnesses were watching, so that there should be no mistake as to who it was. Kalyan then hit Har Narain on the head with a *lathi*, and Har Narain fell. Thereupon Girwar, without waiting to see what else might happen, went off to the village and told Musammat Jumna, while Jhankoo went off in the other direction towards Girwar's village. He denied the *chaukidar's* statement that he was at Maharaj Singh's house that morning. No ground was shown for discrediting the *chaukidar*, whose evidence was clear and straightforward. Girwar was unable to explain why he went to Musammat Jumna's. He knew her by sight, though not by name, and knew that she was related to Har Narain. But he had seen nothing to lead to the belief that Har Narain was dead, although Jumna said that he told her to go and see if he was; and he did not tell anyone of authority in the village what he had seen.

But the most difficult part of his story was the remarkable coincidence that the first and almost only words which reached the ears of both Girwar and Jhankoo were the reference to the incident of the night before, which Jumna had repeated. It was strange, when one comes to think of it, that this vital reference to the threat of the evening before should have been made at all. On the theory that Jumna had spoken the truth, the accused and his nephew were out to beat the old man, if not to kill him outright, and any preliminary discussion was superfluous. Still more remarkable was it that this reference to the evening's conversation should have occurred in the middle of abuse which had been going on for some time, and at the very moment when the two eye-witnesses were within ear-shot. Amar Singh and Kalyan had to act with dispatch if they were intent on murdering the man, and to get away as soon as they could. They were

unlikely to prolong the interview until spectators had time to come up. When questioned about the weapons they saw, both Girwar and Jhankoo stated that only a *lathi* was visible in the hand of Kalyan. What weapon, then, had Amar Singh, the principal? No sharp-pointed instrument was seen. In most respects Jhankoo agreed with Girwar's evidence, particularly in repeating the words said to have been uttered by Amar Singh. Jhankoo left the spot to continue his journey for the usual reason. He did not want to be involved in a criminal case. It did not occur to either of these bright specimens to watch the sequel. It would be asking too much of the ordinary villager to expect him to go to the rescue of the assaulted man, even though only one of the assailants was armed, and though with a little management the three of them could have overpowered the two. Nor did they, while keeping at a respectful distance, think of following the assailants off the ground, back to the village, and of denouncing them for a cowardly attack on a defenceless old man. In short, their accounts were too good to be true. They heard just enough to corroborate the improbable part of Jumna's report and they saw all that was necessary to establish a clear case of guilt. Their story, if there was an iota of truth in it, exhibited them as a pair of contemptible cowards. They did not see the departure of the culprits from the scene. Kalyan departed altogether from the village and did not, like his uncle, come back again before the trial, though he probably did after the acquittal. This was one of the most awkward-looking points. But in the course of these pages the liability of even an innocent villager to abscond has been explained more than once. It could not be used against Amar Singh, because Kalyan Singh was certainly not with him when he left the village, nor during his absence. But the acquittal of Amar Singh was the final chapter. The murderer of the old cultivator is still at large. And so is the question whether Har Narain went that morning to plough.

## VI

### THE MURDER IN THE TEMPLE

THOSE who are not familiar with the appearance of an ordinary Hindu temple should try and realise their peculiarities, according to western ideas, and, in particular, their comparative smallness. It is said that their small size is the result of Mohammedan oppression, which compelled the construction of religious buildings of modest dimensions. This, however, is not the case. A Hindu temple is an institution as well as a building, and many of them possess considerable wealth in the shape of landed property, jewelry, elephants, and banners and other trappings, magnificently embroidered. This wealth is both inherited and steadily increased and accumulated from the small daily offerings of adherents and pilgrims, as well as from occasional legacies and endowments. The temple building has no analogy to the great architectural monuments of the Western world, nor do all its uses correspond to those, for example, of the Christian faith. The shrine is intended merely for the accommodation of the idol, or image, and for the officiating *mahants* or managers and priests. It is not intended for crowds of worshippers. Nor are temples used for such ceremonies as marriages and funerals, though the institutions, as well be explained hereafter, occasionally contribute to the procreation of children. The great majority of the shrines are quite small and unimposing, though there are, of course, exceptions, some of the most famous presenting an appearance of comparative splendour. The Govind Deva temple at Brindaban, constructed at a time when the liberal policy of Akbar encouraged the erection of splendid temples, is in the form of a Greek cross, but is said to be no more than one hundred feet in length and breadth. The exterior of the temple is generally white, and appears to have been kept so by whitewash. The shrine is circular in shape, crowned by a small dome, which is supported by a circle of white pillars. It stands on a stone platform or plinth,

in many cases not more than one or two feet from the ground. These small white buildings are familiar sights as one passes through villages and through the open country, where they are often quite isolated. On the other hand, many of them stand inconspicuously in the row of houses and shops in the village street and in the congested bazaars, looking almost crowded out by the buildings on either side of them. You will often catch sight of one down a narrow side lane or *gāli*. In many of them their small size is compensated by the wealth of decoration which has been lavished upon them, though this decoration is sometimes a mere mixture of tawdry colour and rather shoddy painted tiling. They are open to the street on all sides, and seem to have no special entrance or exit. The floor of the interior often presents an untidy and unpleasantly dirty appearance, with scores of petals of sacred yellow flowers lying about anyhow, half withered, and sodden with casual water. Being easy of access, they are freely used by wandering domestic animals and birds as well as by the garlanded cow, which is sometimes to be seen mooning about in an aimless, sleepy way, and one cannot but observe at times, presumably between the hours appointed for the daily duty of the sweeper, the collection of accumulated filth which lies about just as it always seems to do in any inhabited area in India. Like most things of beauty and value, temples vary in appearance, according to the amount of care and labour bestowed upon their upkeep. Although the *mahants* and managers who live there generally have the handling of plenty of ready money and much valuable jewelry, there are few outwards signs of luxury and comfort about their quarters, which may be hung with somewhat tawdry-coloured looking-glasses and pictures. Ancient books of value, many in manuscript, are preserved, wrapped in cloths or packed in boxes, and no attempt is made to display anything like an imposing show of library shelves. Many of the most costly and treasured ornaments are removed altogether for safe custody until they are wanted. The temple where Bhagwant Das was murdered was, as will be seen, of easy access from the street.

As institutions, these temples, some of which make not infrequent appearances both in the civil and criminal courts, have certain peculiar characteristics. There are black sheep as well as white among the *mahants* and holy men, as in every class of life, and some of them become indolent and self-indulgent, and, falling into temptation, lead somewhat dissolute lives. They are much



given to litigating, both in competition with other institutions and over disputes relating to the regulation of their internal and domestic affairs. Many *mahants* are learned and devout ascetics. All of them are astute in matters of business, and by nature autocratic. But many, on the other hand, seem, except during great festivals and at times of *puja* or worship, to devote little of their time to the moral advancement either of their fellow-men or of themselves. So long as they are glib with their followers and ready to provide them with what they need, their personal character seems to have little influence upon their position and authority in the religious world, particularly among their own colleagues and those who are following the same profession in their immediate neighbourhood. It is often found to be a matter of regret that both in professional life and in the administration of the law and also in public life, there is so little in India of that moral driving force known as 'public opinion'. There certainly appears to be a strange lack of it in the temples.

This is not the appropriate place, even if I were capable of undertaking the task, for attempting to review in detail the religious life and work of Hindu priests and professing holy men, and to generalise about the relation of practice to precept in their system. Naturally, anyone whose main acquaintance with their work is derived from his experience in the courts has seen an undue proportion of the seamy side, and is liable to form a somewhat warped judgment. We are considering here the nature and peculiar features of crime in India, and Hindu temples are certainly not free from crime, or from that kind of immorality which leads to crime. When cases come into court in which breaches of a public trust are alleged against a manager and it is sought to remove him from office, or when on the death of a manager or of a *guru* a struggle ensues between two or more contending candidates as to which shall succeed to the office, very serious charges of maladministration, waste, personal indulgence, and general misconduct are freely made. I do not remember any case during my experience on the Bench, and I must have heard a good many, in which anyone on the other side, in a dispute about the affairs of a temple, had a good word to say for the manager, even if he was not accused of conduct which would be outrageous in anyone.

Some of the endowments are peculiar, not only in the case of ancient deeds and of endowments which are really private ones and

are not public, or amenable to the courts at all. For it has always been the policy of the British Government not to interfere with the Hindu, or the Mohammedan, or any other religion, or with private endowments and trusts, and no one can doubt its wisdom. A case under the section relating to a public religious trust cannot be brought into court without the sanction in writing of the Legal Remembrancer, whose position is like that of our law officers. But conduct which, according to Western notions, would usually be regarded as a breach of trust, turns out, when the deed is examined, not to be so at all. Such, for example, is an endowment in which the property is left for the use of a particular priest or individual selected for the management of the temple, to be spent upon the purposes of the temple and its worship, in his absolute discretion. In such cases he is free to disburse the money almost in any way he sees fit, such as processions, celebrations, or even banquets, directly or indirectly connected with the business of the temple. It may happen at times that a *mahant*, or priest, is resorted to when the desire of the head of a family that his wife should bear him a son seems likely to be disappointed, and a successful issue to this venture is said to be regarded as a high honour, for all *mahants* are high-class Brahmans. They do not marry, but they feel the need of a woman's assistance for the various purposes of domestic life, and many of them are not averse to having mistresses, or kept women, who, as we shall see in the case of Bhagwant Das, are euphemistically, and by courtesy, described as members of a branch of the *mahant's* family.

In a place where pilgrims resort in large numbers the conduct of a religious institution may involve the employment of a large number of touts, who are paid by a commission from the proceeds of their labours. Many families have their hereditary priests, and stick to them. But many who go on pilgrimage for the first time arrive at the railway station, or in the town, without the least idea where to go next or what to do. Both the Church and the Law throw out their army of touts on scouting duty to waylay and direct the lost wanderers. In some places, such as Allahabad, the capital of the United Provinces, at the time of the great annual Mela or religious fair, much of this touting is done by the priests themselves; men belonging to the caste of Pragwals, an inferior class of Brahman priest, notorious for their turbulence and pugnacity, and more distinguished for their skill in getting hold of the cash of the faithful and confiding pilgrims than for

their piety. The murdered Bhagwant Das, who had many rival institutions in his vicinity, employed a large number of touts. This is an important fact in considering the question who was likely to murder him. If his touts did so, they were killing the goose which laid the golden egg. I have never felt any doubt as to who were the real culprits. The reader ought to find little difficulty in forming his own conclusion or in discovering mine.

The incidents now to be related occurred in something more than a village; indeed, a respectably sized town. Much of the difficulty in accepting the direct evidence by which it was sought to bring home the crime to the men accused of it arose from the fact that the place was thickly populated. The temple where the tragedy occurred was down a *gāli*, and was one of several in the same neighbourhood; there were houses and shops near by, for the *gāli* opened out into a substantial thoroughfare; and the route up the *gāli* and down this thoroughfare to the police station took one through a well-populated quarter. This fact, as will be seen, is one of no small importance. The temple was in the possession of an idol which, in its turn, was in the charge of Mahant Bhagwant Das, the old man who was murdered.

The idol did rather well; so did the *mahant*. He had a taste for the good things of life. He was unmarried, but far from being woman-proof; and in his later years he developed a distinct taste for 'nieces'. The gross receipts at the temple about the time with which we are concerned were alleged to be two rupees *per diem*. This income was largely the work of Bhagwant Das' touts. The receipts must really have been considerably more when times were good. The 'niece', Ganga Devi, who gave evidence at the trial, stated that the deceased *mahant* might have had seven thousand rupees locked in his safe. Everyone who has heard Indian witnesses give evidence knows what 'might' probably meant in this connection. The statement was certainly an under-estimate. He also possessed in his own right some three thousand rupees' worth of ornaments, and guarded in the safe another collection estimated to be worth about two thousand rupees, with which he decorated the idol on auspicious occasions, and which he locked up at night. He was never known to be without money or female society, which ought to have been good enough for any man, however holy. He lived a regular, contented, easy, and indolent existence without cares or fears, but he was getting infirm. His sole anxiety was the insistence of his touts,

who were accused of having murdered him, but it was certain that their importunity for better commission did not greatly trouble him, and his conduct betrayed no sign of one who went in fear of his life. Inasmuch as the motive of the murder was said to be loot, and not a *piece* was stolen, the easy-going sense of security in which he lived is a fact to be borne in mind.

At the time when our story begins his establishment consisted of the 'niece' Ganga Devi, who was about thirty, her daughter, Jai Devi, aged about eight, and a man-servant named Durga. Formerly there had been another 'niece', Gulabo Kunwar by name, who had been supplanted or succeeded by Ganga. It was stated at the trial by Ganga and Durga that Bhagwant had left a will by which Gulabo Kunwar succeeded to all his possessions. This will was never forthcoming, and inasmuch as Ganga took possession of everything after the old man's death, including the receipts at the temple, and inasmuch also as the disposition of his property away from her negated the possibility of any motive on the part of Ganga for encompassing the old man's death, the existence of the will must be regarded with suspicion. It was probably the suggestion of the fertile brain of Durga. At any rate, if a lawsuit did not follow hard upon the conclusion of the criminal proceedings, which are all that need concern us, the vakils of the district must have been singularly blind to their own interests.

The antecedents of Ganga Devi made her presence in the temple rather interesting. She had a husband living, but apparently she had ceased to take any interest in him for some years. She had 'kept house' for more than one other man before she had been brought to the *mahant*. This had occurred quite recently when Musammat Gulabo took her departure. Ganga Devi's own account of her presence was naïve. Her husband, she said, was mad. Of course no one could prove he wasn't, for no one had seen him, but he was said to be still at large, and there was no reason why his wife should not be looking after him except that she had found something better to do. But on account of this madness, she said, her father, who was a friend of the *mahant's*, had brought her to the temple so that the *mahant* could look after her as a daughter. She called him '*Tao*', or 'uncle', and he called her '*Beti*', or 'daughter'. This was correct, but inaccurate. Ganga said she did all the work of the temple except the *puja*, such as cleaning, cooking, and so forth. She was admittedly a

housekeeper without wages. The idea was that she wanted a 'god-father', being tired of husbands, and that the *mahant* was willing to fill this not too exacting office for her while he wanted someone to do the household work. One has heard of similar arrangements. On this occasion it was difficult to discover from whom the suggestion had come, and for whose benefit it was. But one thing was clear. It made the position of Durga in the temple difficult to explain. Now, Durga was an undoubted *badmash*, or rogue. He had been in prison for dacoity. He was a *thakur*, a vigorous and warlike race, and by his own account, as we shall see, fleet of foot, as well as a rolling stone. He said that he had come to the temple as a servant on fifteen rupees a month and his food. He had unquestionably been brought by Ganga Devi. The difficulty was to explain, in the light of Ganga Devi's employment as housekeeper and general bottle-washer, what services he had to render. The investigating officer in his evidence at the trial made no bones about the matter. Though his attitude throughout had been favourable to Durga, he bluntly said that he was the lover of Ganga Devi, and that that was the only service rendered by him to anyone. If this was true it was evident that the *mahant* was losing his nerve in his old age, and that he had been slipping into the toils of his 'niece', or 'god-daughter', and her paramour. Ganga Devi and Durga countered this suggestion by the story that the *mahant* had desired Durga to live with him because he stood in fear of his touts. It has already been pointed out that there was really no reason why he should have done so. Durga himself also claimed to be a *chela* or disciple of Bhagwant Das, whom he called his *guru*. This, of course, rather knocked about the servant story, but it was one of the peculiarities of the evidence given by the inmates of the temple at the trial that every situation required at least two explanations; that neither was quite convincing by itself; and that the two together did not fit.

This brings us to the other actors in the drama, three of whom were put on their trial for the murder. These men, of whom there were several—Durga gave the names of ten in all—belonged to a class called 'Gantam Brahmins'. They also were holy men; that is to say, their mission in life was to help pilgrims and to guide them aright to a temple. Of course, the direction taken, and the temple chosen, depended upon the commission customarily paid by the *mahant* or priest in charge of it. In fact, the young men were worthless loafers, who lived by what they could extract

from the *mahant*. It would probably surprise no one to hear that they were charged with a murder of some kind. According to Ganga Devi and Durga, they had recently been demanding more commission, and Bhagwant Das had yielded to their demands, and had given them additional cash from time to time, which had not been entered in the temple accounts. As these accounts had been systematically kept, a task which every Indian performs about as thoroughly as he performs anything, there was no reason for the omission, and none was suggested. It was for this that Durga said, as has already been noted, that he had been brought upon the scene; namely, to protect the old man from violence. How he performed this duty will shortly be seen.

But the theory does not bear examination. The *mahant* and his touts were practically indispensable to one another. At any rate, though they might wrangle over the cash and fall out about details, a severance of the connection was the last thing that either of them was likely to seek. The only result would be financial loss to all. So far as the Gantam Brahmans were concerned, they were not only doing well, but their insistence was producing increased income. On the other hand, the old man might be irritable, but as long as he was complacent with them he had no reason to fear any violence. The incidents immediately preceding his death showed that he did not.

That he was murdered either by some of his touts, or by Ganga Devi and Durga, there is no doubt. The question as to which it was is one to which no final answer was ever given. In the latter case there could be no direct evidence. Secrecy was the essence of the undertaking. If the Gantams were the murderers, the other inhabitants of the temple must necessarily have been eye-witnesses, and plenty of direct evidence, as we shall see, was forthcoming. Three Gantam Brahmans, Mahadeo, Ram Charan, and Sital Prasad, were put upon their trial. The others absconded. This was a point against them, but the fact is not so significant in India as it is in other countries. Though not strictly relevant, it is a matter which cannot be concealed, and an ordinary jury, when they know that the alleged confederates of those who are on their trial have fled from justice rather than face the music, are not unlikely to take an unfavourable view of the circumstance. Readers will remember that in the famous Ardlamont case, when Monson was charged with having shot the expectant heir, young Hamborough, after trying to drown him, a man called Scott,

who was believed to be a London bookmaker, but who was described by Monson as an engineer who had come to do some work on a steam yacht, suddenly paid a visit to Ardlamont at the time of the tragedy, and as suddenly and mysteriously disappeared immediately after it. One of the outstanding features of the scrupulously impartial summing-up of Lord Justice-Clerk Macdonald was his solemn warning to the jury not to allow themselves to be influenced by this circumstance, and particularly not to draw the inference that Monson was responsible for the disappearance. Scott was outlawed, but some time after the trial he appeared in Edinburgh as a conjuror at a music-hall performance and got the order revoked. In India there is no jury in such cases. Judges are but human, and the absence of an absconding accused does sometimes operate unfavourably against those who are put on their trial, though the fact that the trial judge has to write a judgment in every case decided by him, setting out his reasons at length, affords some protection to the accused, in the event of a conviction, which has to be reviewed by the High Court in the exercise of its appellate jurisdiction. Absconding in India is certainly not a conclusive indication of a guilty conscience. Nothing is better recognised than the natural timidity of the ordinary Indian villager, his dread even of an appearance as an accused person, and his foolish belief in an escape as the most efficacious method of avoiding trouble, even when he is innocent. It is his first inspiration. He soon sees reason to regret the step. He is never happy away from his village, especially if it be his ancestral home, and he soon returns, even when he is guilty, and in either case generally makes his reappearance by going straight to the magistrate's court and giving himself up. There are, of course, exceptions. If he obtains satisfactory employment or has private means, he will sometimes elude detection and stay away for years.

The case against the three accused, so far as the question of motive was concerned, was a palpably weak one, and the direct evidence, though superficially strong, was peculiar and suggestive, and deserves some attention in detail. It has often been pointed out that a case of circumstantial evidence is the most satisfactory of all. This is because circumstances and admitted facts speak for themselves, and isolated pieces of direct evidence, proceeding from a variety of independent sources unconnected with one another, and unlikely to have been invented for the purpose of

creating a false case, if they fit into the framework of the story, and all lead to the same inference, corroborate one another, and create, in the sum total, a chain of testimony which holds together and cannot be broken. But the value of a case of circumstantial evidence is not always understood by the police or appreciated by those who are concerned in fixing a crime on the right person. The consequence in India is, and it is characteristic of many trials, that a fairly strong case of circumstantial evidence is ruined by the introduction of direct testimony which is palpably false. This is called 'police padding'.

Many an Indian witness suffers from enthusiasm. This seems to increase with his mendacity. He does not like facts to speak for themselves. He likes to do the talking, and he often seems to be convinced that he can produce the desired result, if only he is given his head. It is, on the whole, rare for sessions judges to criticise a witness or comment upon his evidence while he is giving it, though they are improving in this respect. The judge is generally occupied in typing or writing the evidence, and he is not unlikely, if he does question witnesses himself, to be told by the member of the local Bar who is defending that he is interfering with the course of justice! I have often thought that one result of this is to give garrulous witnesses the most implicit confidence in themselves, and to create a real belief in the cast-iron credibility of the story they are telling; and that they are thus led to improvise and romance with the utmost cheerfulness. A proof is hardly ever taken of their evidence before they give it. The standpoint of the police is somewhat different, though they are often confirmed optimists. But they have behind them training and experience and the recollection of past failures, or what they are pleased to regard as such. They have seen generations of lawyers on the bench in the Court of Appeal, weighing the details of the evidence like a goldsmith with the grains of gold in his delicate scales, and ultimately spoiling the case by finding some so-called 'weak link' in the beautiful chain which spread itself before the eyes of the keen Inspector. The judges on the bench want bald facts, convincing testimony, and proof; and the only thing to do with people like that, who have the last word, is to give them what they want. A confession is, of course, the best of all. With some such idea as this, an eye-witness is often dragged in to supplement, and sometimes to destroy, a well-balanced case of circumstantial evidence.



The main story in the temple murder case was related by Durga and confirmed by Ganga, and in some small degree by the youthful Jai Devi. There were discrepancies in detail such as delight the cross-examiner and compel the attention of the tribunal. But it was not a case in which discrepancies in detail were of much consequence. If the story were true, it all happened in such a confined space and so quickly that accurate observation was hardly possible. The real question was whether there could possibly be any truth in it at all.

Durga said that one evening early in September, at about seven o'clock, when, no doubt, many of the ordinary folk would have gone to bed, but when in a thickly populated neighbourhood there must still have been some people about, six of the Gantam Brahmans, whom he named, including the three who were on their trial, came round to have a talk with Bhagwan Das. They all sat down together with the four inmates of the temple. The *chilam*, or pipe, was produced, and smoking was indulged in. Conversation, as usual, turned upon the money which was coming in, and the share of the touts, but no quarrel or dispute arose, until suddenly the men leapt to their feet and went for their hosts. Four of them, including Mahadeo and Ram Charan, attacked him, while Sital Prasad, in whose hands Durga said he saw a knife, attacked the *mahant*. The sixth went to the doorway and barred the exit from the inner room in which they were. Durga grappled with the man nearest to him, and felt a sudden stab in his stomach from a knife or short dagger. Although surrounded, he was able to see Sital Prasad attacking the *mahant* with the knife which he held in his hand. But either the attack upon himself was the most feeble ever delivered by four men upon an undefended one, or he was able to perform a feat of incredible pluck and agility. He 'removed' the knife from his stomach, and the hand that held it, and made for the door. Dashing past the man who stood there and who caught hold of his leg, he got out through the temple into the road. Here he found four men, who were also touts, waiting for him. He managed to dodge past them, and raced at full speed up the *gali* into the main thoroughfare. Now, it was necessary to have some men there waiting for him. The gang's plan of campaign, as outlined in his graphic account, was first to overpower Durga and put him out of action either for resistance or alarm. The other three inmates were, at best, a weak body and could be

dealt with at leisure. But it was essential that there should be no escape and no opportunity to anyone to give an alarm.

Durga's description of his marvellous escape reads like the account of a famous run by a star Rugby football three-quarter who manages suddenly to get away with the ball, and either throws off or outpaces all who try to collar him. The chief difference is that in Durga's case he had to run straight down a very narrow lane, through four men who were drawn up in waiting for him. He could neither side-step nor feint, and he had a hole in his stomach which must have been bleeding profusely and causing him pain. He declared that he lost much blood, but nothing checked his onward career as, bleeding and shouting 'Murder' and 'Loot', he ran the gauntlet of nearly half a mile of the principal street, and reached the police station without having been seen or heard by a single soul! If this performance is to be accepted, one can only say that truth is indeed stranger than fiction.

On his arrival at the police station he was much exhausted and complained of feeling very ill; and he required rest before he could make his report. Thus, much valuable time was lost. When he said that he was sufficiently recovered, he made his report, which was a curious one. He mentioned vaguely the existence of 'ill-feeling' between the *mahant* and the Gantam Brahmans, whose names he gave. But he made no mention of any attempt at looting, and the main charge which he made and which was entertained by the police was one of attempting to murder himself by stabbing, which had only been prevented from its full accomplishment by his flight. He added that the *mahant* and Ganga had been 'beaten'.

In view of what he asked the court subsequently to believe, this report was a condensed one and contained many omissions. In the first place, it did not say that he had seen one of the persons named using a knife upon the *mahant*. This was a curious omission in any view of the facts. If his story was true, it can only be explained by his ignorance of what had actually happened to Bhagwan Das, and to his desire, so often found in complainants, to leave the door open for further elaboration or even variation which might afterwards be dictated by the disclosures in the subsequent evidence or in the medical report. He himself explained his reticence by saying that he was suffering too severely from his wound to be able to give much attention to detail when

at the station. But this brings us to the next strange feature in the report, and to the equally strange conduct of the Sub-Inspector who took charge of the case. In the report itself there was no specific reference to his own wound. If it was really only a slight one, and self-inflicted, this was perfectly natural. He left it quite vague, so that it would be open to anyone afterwards to say that, so far as the report was concerned, it was quite conceivable that not only the attempt to kill him, but even the attempt to stab him, had failed, and that he had not pinned himself to the existence of a serious wound. But he made it quite clear to the Sub-Inspector that he was much shaken and ill, and also in pain. The Sub-Inspector asked him if he wished to go to hospital and he declined. This is very common amongst Indians. They almost always decline at first, even if they afterwards consent, unless they realise that their condition is critical. But as he was reporting a case of an attempt to murder himself, and had certainly made statements which suggested that he had been stabbed, while he had arrived not merely out of breath but in such a condition that he could not make a report at all for nearly an hour, the Sub-Inspector's failure to ask whether he had in fact received any wound, and what its nature was, or to ask to be allowed to see the condition of the man's body at the place where an attempt had been made to stab him, which could have been easily done while he rested at the station, is quite unintelligible. No one ever saw, as it happened, the hole in Durga's stomach, or the injuries which he said he received, when they were fresh.

After Durga had made his report he went back to the temple with the Sub-Inspector. The discoveries made on their arrival demand our close attention. The *mahant* was lying dead. He had been stabbed in twelve places. It afterwards appeared that two blows had penetrated the heart and two the right lung. There were no signs upon his body of his having struggled with his assailant. He had been despatched deliberately, and probably treacherously, in cold blood. Ganga Devi had some slight surface wounds, or rather cuts, upon the stomach. Durga declared at the trial that he saw her stabbed in the stomach. This was a serious addition to his first story. It was quite inconsistent with the report of 'beating', an expression which had also been used, it will be remembered, about the attack on the dead man. Its omission from the report, if it was true, seems also unintelligible. Neither Durga nor Ganga was medically examined until some

time later, when the magistrate began to entertain doubts about parts of the story; but the opinion of the doctor was that neither of them had been stabbed, and the alleged attempt to kill either of them was clearly illusory. This is another point which deserves consideration. No one with much experience of crime in India would doubt that, in the very large majority of cases, if ten men had decided to kill the *mahant* in the temple, they would think nothing of adding the murder of Durga, Ganga and Jai Devi to their other crime, if only for the purpose of destroying all possibility of their being identified by an eye-witness. The more one considers it the more incredible it seems that Durga should not have been murdered outright and at once before anything else was attempted.

A blood-stained knife was found in the temple that evening. Its ownership was never established. The medical expert said that it might have been responsible for all the wounds on the corpse, as well as for those on the survivors. The prosecution, at the trial, rather committed itself to this theory. This was a palpable fallacy, which Durga himself rejected, because he finally declared that he saw both the deceased and the woman stabbed during the attack upon himself. It would therefore follow that there must have been more than one knife. But unless it was a knife which belonged to the temple and could be identified, why should ten assailants want to leave one of the knives behind?

Still more remarkable were the discoveries made the next morning by Ganga Devi. When she was cleaning round, she came upon an umbrella under the *takhat* or wooden platform of the temple. Inside the umbrella was the sheath of a dagger, which accounted for a second weapon, and which corresponded to that which Durga said had been used upon him. Even the Sub-Inspector was sceptical about this discovery. It is difficult to see how he could be anything else. He declared that, in accordance with his duty, he had made a thorough search the night before, and had seen nothing of the kind. But if he had searched, it would have been almost impossible to have overlooked such an object as an umbrella. He would not say that he himself had searched beneath the *takhat*, though he certainly ought to have done so. It is true that it was the rainy season, and that any visitor to the temple might have been carrying an umbrella. But why should one of the alleged murderers want to hide it at all? And, further, why should he put a dagger sheath inside it? Neither

the umbrella nor the sheath was ever identified as the property of any known person, and the prosecution contented itself with making the point that if two knives had been used, they must have been brought into the building, as they did not belong there. Ganga Devi said at the trial that she saw the umbrella in the hand of one of the accused who was missing. There was no trace of any attempt to break open any of the temple boxes, and nothing had been stolen. This made the case against the touts more mysterious than ever. They knew that there was a good deal of valuable stuff upon the premises, and they had had at least an hour, during the absence of Durga, to ransack the place.

According to Musammat Ganga Devi, they had left her for dead. She had thought that her last hour had come, and had become unconscious. This could not possibly have been caused by any of the injuries she had received, though in the case of a less hardened woman of the world it might have occurred from fright and shock. She had cried out for help before fainting, but no one was forthcoming who had heard any cry at this stage. The little girl corroborated, in the main, the story told by her mother and Durga; but although she knew the men by sight, they left her alone, and she said that she escaped to another inner room and there hid herself. During this interval the accused must have made good their escape, but, with the exceptions now to be mentioned, no one was called to speak to their movements that evening.

When Ganga Devi recovered and found herself, much to her surprise, still alive, she ran out on to the roof and gave an alarm, calling 'They have killed; they have killed!' This brought to the scene two witnesses, who gave curious evidence. Their two stories corresponded very closely, although they did not happen to see one another. Both of them complained that they could not see well at night. One of them had happened to pass the temple a little while before he heard the cries of Ganga Devi on the roof, and had seen four men standing in the *gali*, but he was not prepared to say that he recognised them, although he thought they looked like Gantam Brahmans. Both of these witnesses went out on hearing Ganga's cries, but they were discouraged from going to the temple to see what was the matter, because as soon as they got outside their houses they were greeted with showers of stones and brickbats. They could not say who threw them, but they were both certain that there were ten men in

all, and that they also looked like Gantam Brahmans. The men who threw were in the *gali* near the temple. This evidence is open to several comments. It was a singular coincidence that both men should have behaved in precisely the same way. They came from slightly different directions, although at much about the same time, and yet both were assailed by all ten throwing missiles. Neither of them was prepared to identify anyone, but each gave the same description. Neither had the courage to brave the storm and go to the woman's assistance. Both concluded that it was none of their business. But both stories seem incredible, on the face of them. Why should men who had already committed a murder wait upon the spot while the woman gave an alarm in order to stone everyone who came at her cries? The probability is that these two witnesses were what is known as 'mere police padding'.

The three men, Mahadeo, Ram Charan, and Sital Prasad, were convicted. They appealed, however, and it was held that there were so many points about the evidence which required further elucidation that the conviction must be set aside, and a new trial was ordered. At the second trial, which took place before an experienced English judge, they were acquitted. One of the assessors at the first trial volunteered the opinion—a very unusual thing for an assessor to do—that Durga and Ganga Devi were accomplices, though the point had not been suggested. He may have thought that they were the principals and got some bazaar ruffians to come in and carry out the murder for them. Or he may have thought that it had all been arranged by the other 'niece', Musammat Gulabo Kunwar, with their connivance. It is a nice question whether upon their own statements and the circumstantial evidence a sufficient case to hold together in a court of law could have been constructed against them. But they were never put upon their trial, and the murderers of the *mahant*, Bhagwan Das, went unpunished.

## VII

### THE HUMAN SACRIFICE

ON the 11th of November, Ram Saran made his appearance at the *thana*, in a state of inexpressible grief, and reported the sudden and mysterious disappearance of his little boy, Sohan. He had seen him alive and well at seven o'clock that morning. The murder of infant children in Indian villages occurs with distressing frequency, and is generally due to one of two causes: either to enmity between the mother and some female relative or neighbour, in which case it may happen to a mere infant, however young; or to the greed of some male villager, who, having decoyed the child away from home, will throw it into a well, after stripping it of the cheap silver ornaments which parents persist in putting upon their children of either sex. But in the case of Sohan, his mother had no enemy who would be likely to inflict such an injury upon her, and as he was only two years old, he was too young to be wearing the usual adornments. Ram Saran and his friends had already made an exhaustive search of the countryside, without discovering any clue. He had no suggestion to make by way of explanation of his loss, and his report at the police station was not likely to lead to anything. No 'cognizable' offence was made out against anyone upon which the police could act, and the Station Officer does not send out search parties for the benefit of private individuals, unless his duties require him to take up the investigation of a definite allegation of a crime. Kidnapping would be a 'cognizable' offence, but Ram Saran was not in a position to make a charge against anyone. All that he could say was that he had learned, on inquiry, that the infant, while toddling about with other children, was believed to have been led off by the hand by some young girl, as to whose name, or identity, the other children were unable to give any information.

Ram Saran next saw his infant boy, on the evening of the 13th, at the police station. He had received a mysterious hint from a

villager, who was unable, or unwilling, to say where he had got his information, that a child, which was probably his, had been taken there. The station was several miles away, and the child's conveyance there, instead of to its home, was also mysterious. He found it in a pitiable condition, with ghastly wounds round its thigh. The manner of the discovery of the child was again mysterious. A villager, named Manrakhan, had brought it to the *thana*, accompanied by another villager, named Mathura Prasad. Manrakhan had found the child in a *nullah*, or ditch, close to the village. The village was a large one. He said that he had been attracted to the spot by hearing a child's cry. He had told Mathura Prasad, and the two together had gone in the direction indicated, and there found the child. No one except Manrakhan had heard any cry. Now, a deserted child does not lie out in a ditch for very long without making a noise. It was quite certain that it had been laid there only a short time before its cry was heard. The strong probability was that Manrakhan knew perfectly well that the child was there, even if he had not put it there himself; and that he had good reason for going to discover it when he did, and also for taking someone with him. Both Manrakhan and Mathura Prasad lay, for a long time, under suspicion, amongst the villagers, of knowing a great deal more about the matter than they had told. They must have known that Ram Saran's son was missing, because Ram Saran had publicly offered a reward to anyone who should find it and bring it to him alive; an unusual event in a village, which was certain to attract general notice. They must, therefore, have had some special reason for carrying it off on a long journey to the *thana*. But they said they did not know whose it was, or what they ought to do with it.

The child was immediately taken from the police station to the hospital. It was wearing the clothes which it had worn when it disappeared, and there was no trace of bloodstains upon them. When the wounds were examined at the hospital they were found to be large and irregular; the flesh had been actually cut away, exposing the whole of the front and half of the back aspects of the right thigh. Another wound was found on the abdomen. All these wounds appeared to have been deliberately cut with a sharp knife. A feeble attempt, originally suggested by the Indian doctor employed at the hospital—who, for reasons which will appear, may have sympathised with those who were subsequently put on their trial, and who seemed to shrink from committing himself



to anything very definite—was made to show that the wounds had been caused by the bites of animals. This would be quite likely to happen if the body had lain in the *nullah* for any length of time, especially during even one night. But it would, on the other hand, be impossible that the child could have survived the exposure and the attacks of wild animals combined. Moreover, the cleanly appearance of the body and of the clothes, when the child was found, was all against the theory; and the doctor was clear that the wounds were at least twenty-four hours old. They were dry and crusted with dust, which must have been carefully sprinkled, either to staunch the blood or for healing purposes. Soil is often used by villagers with both objects. But, of course, the wounds had been otherwise shockingly neglected, and, after lingering for about a week, the child died of blood poisoning and exhaustion.

Ram Saran was stricken with grief. It was his only son, and a Hindu father, though reasonably looking forward with hope to the prospect of replacing the loss, is, for the time being, inconsolable when visited by such a bereavement. He openly declared his determination not to rest until he discovered the author of the crime. The belief eventually entertained in the village was that the child had been treacherously kidnapped and used for sacrifice. It is a curious feature of Indian life how these rumours gain currency, by a gradual though steady growth, and stick; though sometimes ludicrously false, they are more often absolutely right. It seemed as though the women must have been at the bottom of this persistent rumour. During the child's illness in hospital, while it hung between life and death, numbers of women looked in at Ram Saran's house to ask how it was getting on. One or other of the male members of the family daily walked, or drove on an *ekka*, the dreary journey to the hospital. Amongst these sympathetic callers, Ram Saran's wife noticed one strange woman, who not only came regularly every day, but who seemed to be particularly pressing and earnest in her inquiries. The wife reported this to her husband, but beyond saying that one day the truth would be known, he did nothing. Either his inherent fatalism, or his tropical lethargy, deterred him from following the matter further. He did not mention it even to the police until the following January, when, for reasons of their own, they had begun making investigation into the mystery, and then the strange woman could not be found. But someone was behind the police, and with a praiseworthy persistence they produced

woman after woman to see if Ram Saran's wife could identify the stranger.

Their patience was rewarded. About the end of January they brought with them one Musammat Laraiti, and Ram Saran's wife recognised her. Laraiti, who had nothing to hide or to fear, agreed that she was the woman who had called to inquire about the child. She was a *nain*, or member of the barber caste, and she had been in the habit of doing odd jobs, such as shampooing and running errands, for a well-to-do Brahman lady, whom she knew only as the mother-in-law of Musammat Chironji, the wife of the *zemindar*, who lived in a large house on the outskirts of the village. She said that she had been sent every day by Musammat Chironji to make inquiries about the child's health. She then told the police that she had called at the *zemindar's* house one afternoon, about three months before, and had seen a strange child in the *angan*, or inner quadrangular court of the dwelling, and had been told to go away. This was shortly before she had been sent to inquire after the child. She gave the police certain other information, and told them that she had always understood that the child she had seen in the *angan* was the same child as the one she had been sent to inquire after, and which had died, but that Musammat Chironji had told her nothing, and had impressed upon her the necessity of preserving absolute secrecy. She told the police that she had talked the matter over with a woman named Chutkia, who was also employed at the house. This was quite enough to account for the village rumours. Musammat Chutkia was then unearthed by the police. She was a *kaharin*, or of the bearer caste, and used to draw water for Musammat Chironji's household. She had more important information to give. She related how she had seen Dwarka Prasad, the son of the Manrakhan who had found the child in the *nullah*, bring a child of about two years of age into the house one morning, and how she was ordered to prepare and make clean a square piece of ground in the courtyard, and to bring a pitcher of water. She also said that she was at the house just before the time when she understood some ceremony was to be performed, and that she saw collected there Musammat Chironji and her husband, Mahesh Lal, a certain Sadhu or ascetic named Krishna Rao, Mathura Prasad, Dwarka Prasad, and another man, named Ram Narain, a member of Mahesh Lal's family. The next day she had seen what she believed to be the same child, because there

was no infant belonging to the household, lying on a cot, covered up to its neck with a white cloth, on which were bloodstains. The child was crying and moaning, and seemed to be in a state of semi-unconsciousness. She had heard the day after that the child of Ram Saran had been found the previous evening, cut about, near the village, and had been taken to the police station.

All this appeared to create a circumstantial case against Musammat Chironji and her friends for having kidnapped the child; but there were links still missing, and the police were on a case of murder—which was a very different matter. There was ground for trying whether anything further could be extracted from those who had already been named, either by frightening them or by interrogating them. They were the last persons to have been seen with the child before it was discovered in the *nullah*—always assuming that the inference could be legitimately drawn that the child spoken of by Musammat Chutkia and Ram Saran's son were the same. But the police did not know what had really happened and could not form an opinion with sufficient confidence to attempt to bluff Musammat Chironji and her friends. The woman was to some extent educated and would certainly have been carefully coached, and she might stubbornly refuse to answer questions. And if the police happened to show by what they said how little they knew they would inspire confidence rather than fear, and destroy all hope of obtaining any useful information from this line of inquiry. They decided upon a bold course and arrested Krishna Rao, the Sadhu.

It is not clear why they took this step at this stage. But the investigation was being directed by the European Superintendent of Police, in consultation with the district magistrate or collector. Someone had been communicating with the latter and had put pressure upon him to intervene in an endeavour to solve the mystery. When this happens, a matter is not easily dropped. This is a point worth noting. There is all the difference in the world between an investigation conducted by an ordinary Sub-Inspector at the instance of a local complainant, and one in which the district magistrate is interested, and which the Superintendent of Police is personally supervising and directing step by step. In the latter case there may not always be the same degree of subtle undermining, and of those shrewd methods of patient diplomacy in which the local police excel in their dealings with the timorous villager. But there is more initiative, enter-

prise, and decision, and occasionally bold and rapid action which leads to big results. It was probably thought, and not without justification as subsequent events showed, that Krishna Rao would become nervous and be anxious to try and save his own skin by volunteering information; and it may have been thought also that the Sadhu's arrest would strike terror in the hearts of the members of Musammat Chironji's family and induce some of them to make disclosures. But whatever hopes had been formed by the authorities, their bold stroke failed. Krishna Rao, while acknowledging that he was the family priest, stoutly denied all knowledge of the presence of any infant in the house, and said that he had not been present at any unusual proceeding or any meeting such as had been described by Musammat Chutkia. Time passed, and though the matter continued to be the subject uppermost in the minds of the villagers, and several of them came forward with vague statements and suggestions, only hearsay was forthcoming and the police could get hold of nothing of evidential value.

But suddenly a strange thing happened. Krishna Rao fell into the hands of the police in another police circle, on a charge of highway robbery. He had found that the village was getting too hot for him. Curiosity was not dying down as he had hoped. Suspicion still attached to him and, whether or not his conscience smote him, his stock was falling and he decided to try a change of air and a new scope for his activities. So he set out on foot to a distant and well-known resort of pilgrims, in company with a *bania*, or money-lender, and seized the opportunity of replenishing his impoverished exchequer by taking the unfortunate *bania* unawares during their joint journey and relieving him of some valuable ornaments which he was carrying with him on the chance of doing some profitable business in the place of pilgrimage. The high hopes which the *bania* had doubtless formed of promoting his material welfare by associating himself with the holy man were disappointed, but he succeeded in putting the police on to his treacherous companion. While in custody for this singular lapse from grace, the Sadhu fell into a police trap. He was informed by the Station Officer at the new *thana* where he was now housed that the game was up and that his confederates in the baby case had confessed the whole story. The holy man thereupon remarked that he might as well do so too, and he did. He may have thought with King Richard:

I'll give my jewels, for a set of beads;  
My gorgeous palace, for a hermitage;  
My gay apparel, for an alms-man's gown;  
My figured goblets, for a dish of wood;  
My sceptre, for a palmer's walking staff;  
My subjects, for a pair of carved saints;  
And my large kingdom, for a little grave,  
A little, little grave, an obscure grave—  
Or I'll be buried in the king's highway,  
Some common way of trade where subjects' feet  
May hourly trample on the sovereign's head.  
For on my heart they tread, now whilst I live;  
And buried once, why not upon my head?

Be that as it may, Krishna Rao threw up the sponge. His story was as follows: Musammat Chironji was much troubled because she had borne no son to her husband, who felt the matter keenly. Apart from the strong wish of every devout Hindu to leave a son behind him to perform the funeral rites and to do worship for the good of his departed soul, it was important in connection with the family inheritance, and Musammat Chironji was afraid that she might be supplanted by her husband taking another young wife. Mahesh Lal and his mother had called upon him, Krishna Rao, on several occasions, to consult him. A learned man who was in the habit of visiting him and doing *pūja*, but whose name he did not disclose, had told them that Musammat Chironji's sterility could be cured if she ate the warm and reeking flesh of a living child and drank its blood. This was a palpable falsehood so far as it related to the authorship of the idea, for it is certain that the family priest would not allow his authority with the household to be shaken by another taking his place as confidant and counsellor. Eventually the parents had decided to make the experiment and to procure a child. He was invited to the house, where he met Mahesh Lal and his mother, Musammat Chironji, Mathura Prasad, Dwarka Prasad, and Ram Narain. A child was already lying there unconscious, having been intoxicated with *bhang*. He was asked to perform *pūja*, or worship, and the ground was plastered with cow-dung for the purpose. The child was placed inside the plastered square and Krishna performed fire-sacrifice to the goddess Devi. Then, having put a sacred mark on the forehead of the child, he withdrew from the square and sat apart. The criminal acts were then performed by two of the party, whom he was unable to identify, but upon whom he endeavoured in his detailed account to throw the blame.

They put the child in the centre of the group, and each of them, using his own knife, cut a piece of flesh from the thigh, and with fresh cuts drew blood from below the ribs. One of them wrote an *antra*, or magic square, on the ground with the blood, which had been drained into a brass pot and was to be drunk by the childless woman. He, Krishna Rao, seeing the child wrapped in white and hearing an order given that it was to be removed, took his departure. The medical details of the act and its possible consequences, neither of which he could have prevented, did not concern him. He had been called simply to perform the worship of the goddess Devi. He noticed that the child was crying and gasping when he left, but he did not know whose it was or how it had been obtained, and he said that it was no business of his to inquire. He added that the husband was never a willing party to the ceremony, and had protested, but was powerless against the determined fanaticism of his women-folk. It was very difficult to say how much of this statement was true and how much was half-truth designed to save himself. This is constantly one of the chief difficulties of a criminal case in which there are several accused and one confesses to a subordinate part in order to throw the chief blame on to the others.

The case was an exceptional one, not only on account of the revolting and pathetic circumstances and the unsatisfactory result of the trial, but also because, so far as could be learned at the time, there was no trace in the history of the Province, nor in any of the historical writings on Human Sacrifice, of a similar act performed on the body of a living child for such a purpose. Although, in one sense, it may be treated as a human sacrifice, one must accept the view that neither Musammat Chironji nor any of those who took part in it desired or intended to take the child's life. Short of having a medical man in attendance, or a *dai*, a sort of untrained and unlicensed midwife, who is often employed by the more ignorant and by the poorer classes in cases of confinement and of illness amongst women and children, they seemed to have done all in their power, which they could safely do without courting discovery, to give the child a chance of recovery. Musammat Chironji showed, in the end, the finer feelings of her sex by sending daily, at what she must have known to be the risk of detection, to inquire after the child's health. In the eyes of the law, they must be taken to have contemplated and intended the natural and probable consequences of their act, and all were

therefore guilty of murder. But it must also be taken for granted that they did what they did under the influence of the Sadhu and in implicit belief in the sanction conferred by his traditional authority as family priest, and that the Sadhu himself performed the operation upon the child. It is inconceivable that he would have allowed anyone else to usurp his authority in such a matter. He knew quite well that he was defying the law, and was probably prepared to accept such consequences as fate might have in store for him, and as his natural intelligence and instinct of self-preservation would be unable to ward off, in the event of the facts coming to the knowledge of the authorities. Having once put his hand to the plough, he could not turn back. His authority with the family, from whom in the past he had probably derived his main source of livelihood, would be gone for ever, and his influence with others, who looked to him as their spiritual guide, would decline with it. Many of those who follow this calling are men of exemplary life and character, and are students, if not teachers, of morality, and men of much learning and simplicity. But even amongst the really devout there are a large number upon whom the promptings of pride and self-importance operate more powerfully than the prickings of conscience, and who will descend to almost anything sooner than consent to any course which they think will do violence to the halo of sanctity with which they surround themselves. In no other way can one explain the leading part which some of the biggest men amongst them will take in riots and communal disturbances, for which they may have to pay with their lives. Even the bee-destroyer, before climbing a tree to burn out a swarm of wild bees which has settled on the trunk—one of the most deadly of man's enemies if they once attack—with a flaming torch of cloth soaked in paraffin, bound round the end of a long pole in his hand, through which no bee could possibly pass alive, will go through the absurd ceremony of uttering loud prayers and incantations, in order to impress the spectators with faith in his mystic gifts. I have heard the same of snake-charmers, who are really only displaying their skill and experience.

Krishna Rao betrayed his mean and contemptible character in his escape from the village, his robbery of the *bania*, and in his final feeble effort to save himself at the expense of the others, by denying his real share in the counselling and abetting of the murderous crime. He had not the courage of his convictions, nor the moral

courage to rely upon the traditional tenets and beliefs which led him to recommend and countenance what was done. He, therefore, provided no material, at any rate to the public or to the authorities, from which any opinion can be formed as to the source from which he derived the idea, or which throws any light upon similar ceremonies in ancient days, or upon any ancient belief in the efficacy of such a cure for barrenness in women—which is, after all, the greatest curse of the Hindu wife. The essence of sacrifice is slaughter, or ritual destruction by the effusion of blood. If it is correct to suppose that the death of Sohan was not intended, the element of true sacrifice was lacking. But Krishna did not, in fact, commit himself to any such merciful view. If he had frankly admitted that the sacrifice of the life of the child was what he believed to be necessary, one would have been disposed to take a more merciful view of his conduct. But on this part of the case, his statement, or confession, affected complete indifference, and produced no more than an impotent negative and a denial of personal participation.

Child sacrifice was practised in Australia only in connection with the initiation of a magician. It does not appear to have been practised as a ceremony elsewhere. At any rate, nothing is recorded about it in India, where human sacrifice has been mainly confined to the *suttee*, or the self-immolation, often freely made, and as often preferable to continuance in life, of the Hindu widow on the pyre of her husband, and to the Khond sacrifice of the Meriah. The prohibition and punishment of *suttee* are enacted in the Indian Penal Code by a section against abetment of suicide. In the present case, which has been called 'The Human Sacrifice', because that is what, to all intents and purposes, it was, the accused were put on their trial simply for murder.

Krishna Rao's statement was recorded before a magistrate as a confession. It was enough to hang him, corroborated, as it already was, by what the female servants had said. Mahesh Lal, the husband, bore out what Krishna had said about him, and offered to give evidence. It was cowardly and unmarital of him to desert his wife in this fashion, and somewhat unusual in a Hindu husband. Apparently the police believed his account of himself, and thinking that his statement might be accepted by the Sessions Court, and that he would be acquitted, preferred to strengthen the case by making him a witness, rather than a subordinate accused on a charge of aiding and abetting. There may be two opinions



about the correctness of this decision. Anyhow, it will surprise no one to learn that when he gave his evidence at the trial, the health of Mahesh Lal had become poor, and his recollection worse, so that he added very little of substance.

When he found that he had been caught in a trap, Krishna Rao took the usual course of retracting his confession. This did not seriously affect the case for the prosecution, because, as will have appeared more than once in the course of this book, it is one of the peculiarities of the law of evidence in India that the confession of a co-accused may be 'taken into account' against the others, even though it has been retracted. He did not take the usual course of saying that he had been beaten and tortured by the police, and tutored to make a false statement. He quite frankly said that the statement had been obtained from him by the false representation that the others had confessed, and that it was a false one. This allegation against the police was accurate, and the fact elicited animadversions by the judge. It is possible that some will disagree with this criticism. A false statement by a police officer may seem very shocking to a professional saint, but it is not an adequate reason for inducing him to tell a pack of lies, and to confess to participation in a revolting crime with which he had nothing to do. And if detectives in the pursuit of criminals are to be discouraged from playing a palpable trick upon a man whom they believe to be one of the chief culprits, they may as well retire from business at once. The law has prescribed the limits within which a confession may be used. Threats, torture, violence, promises, inducements of pardon, and the like are sufficient to exclude a confession. They are based upon a *quid pro quo*. But why should an innocent man confess to something which he has not done because he is misled into believing that his confederates have done so? An innocent man has no confederates, and if he has anything to gain from having made a false confession, he can afterwards say what it was. There was never the slightest doubt about the guilt of Krishna Rao.

With regard to the other accused: Dwarka Prasad, it will be remembered, was the son of Manrakhan, who found Sohan in the ditch. He was seen by the *kaharin* to bring the child into the house. Mathura Prasad, it will also be remembered, was the only person with Manrakhan at the time, and they both went to the *thana* with the child. It is pretty certain that Dwarka did the kidnapping, and that Mathura Prasad and Manrakhan took the

child away after the operation and pretended to find it. Manrakhan was probably brought in because his son was already involved, and he would almost certainly decline to do the finding unless he had a witness with him. The Indian villager is very chary about being the first to be in contact with a murdered body, or any *indicia* of a crime, unless he is accompanied. He is always afraid that he will not be believed and that, somehow or another, suspicion will attach to him. An effort was made to show at the trial that other witnesses had seen these three in suspicious circumstances, but as the witnesses had made no statement on the subject till months afterwards and after the arrests had been made, they were not believed, and their evidence probably did more harm than good. The Sadhu and Musammat Chironji were convicted; but Dwarka Prasad, Mathura Prasad, and Ram Narain were acquitted. Yet if the truth of the story as a whole was established, there seemed no reason for rejecting the independent evidence of Musammat Chutkia, confirmed as it was by Krishna's confession. An appeal against these acquittals was made to the High Court, but was rejected. The Court took the view that Government ought not to appeal, or at least should do so very rarely. As the law gives it the right to appeal against an acquittal which it is advised is erroneous, this seems rather a pessimistic view for an appellate tribunal to take of its own jurisdiction. On the whole, the three must be accounted fortunate to have escaped without punishment. The Sadhu and Chironji were sentenced to transportation for life, which is an alternative punishment for murder in India. The woman was the victim of superstition and priestly influence. It was well that the Sadhu was removed from further opportunities of doing mischief to his fellow-man, but that was an insufficient reason for not hanging him.

## VIII

### THE PATWARI'S NOSE

IT is not proposed in this narrative to describe in any detail the wonderful organisation of the Revenue Administration in British India. In 1897 it was said by a high authority to be 'about the greatest work done by Englishmen in the present generation'. But some bowing acquaintance with it is desirable to enable the reader to appreciate the causes which led to the 'bold and rash act', as the Sessions judge called it, committed upon the physiognomy of Ganga Din.

The land revenue, which yields about £21,000,000 a year, and is the chief source of revenue in India, is not a tax, but a rent paid to the ruling power, which has always been the chief landlord and entitled to a share of the produce of every acre of land. The 'Revenue side', as it is called, has its own elaborate system of recording, more detailed even than Domesday Book; its own army of officers, in whom both executive and judicial functions are vested; and its own courts, original and appellate.

In Northern India the Government revenue is assessed, not on each field, but on the whole of the land included within the boundaries of the village. To be precise, the village, which is not as we in England understand it, but a group of land-holdings aggregated in one place, is not the unit of assessment. The real unit is the '*mahal*'. The word 'estate' is the nearest English equivalent. It means a local area held under a separate engagement for the payment of the land revenue, for which a separate record of rights has been made. There may be several villages in a *mahal*, and there may be more than one *mahal* in a village. The Government has no dealings with the individual cultivators. The revenue is fixed in each settlement area in turn, every thirty years, by a special settlement officer. The revenue is borne by the shareholders as a whole, consisting of those who compose the landholders in the unit. They usually fix the share to be borne by

each, and are represented by one of their number, who is responsible for collecting the rents from the tenants of the shareholders, and for paying the sum due to Government for revenue.

The first step towards a settlement of the land revenue is an accurate survey. It is said that in the North-West Provinces there are more than 30,000,000 fields and plots, all of which have been measured and mapped. Every field has a number corresponding with a register or field-book. In this are entered the area of the field, the crop, whether or not it is irrigated, the rent payable for it, the names of the proprietor and tenant, and other particulars. A rent-roll is also prepared for every village, showing the fields and area of each cultivator's holding, the length of time for which he has held, the rent, the person liable, the names of the proprietors, the share of each, and the amount of revenue for which each is responsible. When it is borne in mind that frequently only one name out of those of several members of a joint family is entered, and the name is often changed, while at other times the names of all of them are entered, while the name of a Hindu widow, who has no interest at all except a right of maintenance, is invariably entered 'for consolation', it will be seen how these entries may become a source of dispute and of determined litigation.

Each village or circle of villages has, according to ancient custom, its local accountant or *patwari*. In the United Provinces alone there are 30,000 *patwaris*, each of whom has usually charge of three or four villages. It has been found extremely difficult in practice to ensure the accuracy of the *patwari's* papers. Maps and records are not kept up-to-date, and public and private interests alike suffer. Changes occur every year under all the heads of the records which the *patwari* has to prepare: field boundaries are altered; waste land is brought under cultivation; parts of holdings are relinquished by tenants; tenants are ejected; new tenancies are created; rents are raised or lowered; proprietors die and their lands are divided among the heirs; sales and mortgages take place; irrigation and crops vary perpetually with season and market. The scope for error is practically unlimited. But the neglect and stupidity of *patwaris* are not the worst evils against which the illiterate cultivator has to struggle. The *patwari* is an institution. He has survived many dynasties and every change and improvement which the organising genius of British rule has devised for the development of local administration. Heaven and

earth may pass away, but the *patwari* will not pass away. He has been threatened too often. The importance of his work to the village community explains his opportunities, and his reputation, for corrupt practices. He keeps, and ought to keep up-to-date, the *khasra* or field-book, the village map with its numbered plots and its corresponding entries in the register, and the *jamabandi* or rent-roll. Changes in possession necessitated by death, removals, and by the varying chances of life, ought to be entered by him. He should note all alterations and adjustments of boundaries, and all subdivisions resulting from partition have to be duly recorded, together with the other matters already mentioned.

In an illiterate and peculiarly litigious community the value of a written entry can hardly be over-estimated. In too many cases it is shamelessly false, and in many more it is justly regarded with suspicion. But it is something to go upon and it is highly valued in legal circles. Nor is this a matter for wonder when one realises that upon the simple issue as to which of two persons has cultivated a plot, or is in actual occupation of it, it is quite common to find a number of witnesses on either side flatly contradicting one another, each backed by strong corroborative detail in support of his assertion. In such a contest the *patwari's* official entry, supported by his sworn testimony, and his normal means of information ought to be conclusive; and the side which he supports has *prima facie* a strong card to play. His own position is certainly a strong one. Though in outward appearance he is seldom a particularly happy-looking man, he lives on velvet. His opportunities are not to be measured merely by the influence ordinarily exercised by a person who can read and write, however imperfectly, over a heterogeneous crowd of tenants and cultivators who can do neither. An absentee landlord, whose rents depend upon entries made by the *patwari*, is obviously very much at his mercy in the matters of detail which form the basis of the pecuniary calculation. On the other hand, a community of cultivators defending themselves against the greed of a shrewd and grasping landlord, whose demands are enforced by the unknown terrors of the law, have every motive for keeping the *patwari* in a sympathetic and reasonable frame of mind. It would be idle to expect the average *patwari* to accept his slender salary as adequate remuneration for his exacting and varying duties. It is unlikely that anyone ever attempted to compel him to do so.

A *patwari* would probably be astonished, if not indignant, to

meet a landlord, or a cultivator, who expected him to work for his pay alone; and a plentiful supply of grain at harvest time, sufficient to provide for the food of a large family, free of charge, or a cultivatory area held at a rent which is never collected, may be regarded as the minimum of his requirements by way of perquisites. While it is due to him to recognise the value of his indispensable services, his opportunities for extortion are considerable, and the methods of dishonesty pursued by the various occupants of his office differ as widely as their habits of thought. It is not difficult for such a man to command a circle of friends; it is impossible for him to avoid making irreconcilable enemies.

Such was the situation of Ganga Din, who had served the office in his circle for many years, and who was deservedly distrusted and feared, when he was suddenly called upon to pay the penalty of his strict attention to business. It was never clearly established what particular piece of villainy led to his painful punishment. Notoriously a bad witness, he was a constant source of irritation to the tribunals before whom he appeared in that capacity, and the despair of those who called him on their own behalf. But he had never figured as an accused person in that conspicuous place in court which his undoubted merits as a fabricator of records eminently qualified him to fill. Few things are more exasperating to an oppressed and long-suffering community than the daily spectacle of their oppressor, whose repeated iniquities are so devised as not only to elude the grasp of the law, but to leave him more firmly sheltered behind an impregnable security of unctuous rectitude, and still better equipped for a repetition of his efforts. They are not unlikely, in the end, to abandon all idea of bringing him to justice, and to devise some method of punishment which, while retaining him in their midst, shall cover him with shame and indignity.

It all happened in a moment. Ganga Din was sitting peacefully smoking in the centre of an admiring circle outside the stall of a friend who sold *pan* and vegetables in the bazaar, where a few purchasers were doing business and small knots of villagers were casually gathered. It was the hour of the mid-day rest and refreshment, and, for the most part, the workers were arousing themselves from their customary torpor in the noon-day heat and were beginning to return to their occupations. Nobody was doing anything in particular except the few shopkeepers where business happened to be brisk. And yet the bazaar seemed to be full of life

and movement, with that indescribable jangle of strident human voices and discordant animal noises familiar to those who frequent the narrow, crowded streets in an Eastern bazaar. The capacity to hold conversation with others from a distance is one of the characteristics of the ordinary Indian. I once had to wait on a golf tee, before driving, while three men finished an animated argument about a horse, not one of them being nearer to the other than one hundred yards. It is the same whether in the open country or in the street, and the ordinary bazaar never seems free from a crowd of jostling humanity, and from the confused roar and rumble of human voices. It is a simple matter for anyone so inclined to pass quickly and stealthily through the crowd without attracting any notice.

Suddenly a small knot of men began chasing one another with considerable zest. Before long, one of them in particular seemed to have been selected for the chase, and to be hunted by the others. Pursued with loud cries and laughter, he ran headlong into the crowd where Ganga Din and his friends were seated smoking or chewing betel-nut, and fell heavily over a basket of vegetables standing on the ground close to the *patwari*. His pursuers rushed at him in a bunch, upsetting more baskets, and with them the *patwari* and his neighbours, shrieking the while, as though they were playing some wild game of 'touch last'. The vegetable seller sprang to his feet, uttering cries of anger and alarm, cursing the invaders, and threatening them with the police. He seized the fallen man and shook him violently, while the pursuers, falling over one another in their excitement, made noisy efforts to recover themselves and to capture the object of their chase. The friends of the shopkeeper, scenting mischief and an attempted rescue, with possible injury to him, dashed to his assistance, while others ran to save the vegetables and other goods, which were now rolling about in all directions and were in danger of being snapped up and carried away by casual passers-by. The loss of a few nuts is no light matter to the ordinary shopkeeper in the bazaar, who knows the number of his goods down to the last leaf of *pan*. Considerable confusion ensued, and something like a small riot, which is always ready to break out, with loot and broken heads, at the slightest provocation in an Indian crowd, seemed imminent, when the authors of the accident laughingly apologised to the shopkeeper, promising to make good his loss, and began to break off in different directions. But as the

noise subsided, the attention of everybody was attracted by what sounded like shrieks of pain proceeding from a man who was still lying on the ground, rolling from side to side in apparent agony, his hands covering a blood-stained face. Realising that it was Ganga Din, some of the crowd went to his assistance and raised him from the ground. He seemed unable to stand, and to be in a fainting condition, while blood poured from his face. Removing his hands in order to see what had happened to him, a ghastly spectacle met the gaze of the large crowd which had now gathered round in serious curiosity. Ganga Din's nose had been completely severed from his face. His cheeks had been slashed and cut, and fresh blood was oozing from the wounds and from the gaping orifice where his nose had been.

Mutilation is a favourite form of punishment, in certain cases, amongst Indian villagers. The lust for blood is common with them all when their passion is aroused. But there is more in it than that. In the ordinary fight, which invariably follows the preliminary abuse arising out of some trivial and temporary dispute, beating and bruising, indicating triumph and momentary superiority, generally satisfies the victor. But long-nursed animosity and calculated vengeance demand something more in the nature of a permanent injury and mark, to be exhibited to the public gaze and to be remembered for all time. In the case of a wife suspected of infidelity, the punishment sometimes takes the form of the removal of the hands. But this, if her lord and master allows himself time for reflection, is false economy, for though she carries her ugly stumps for life, she is unable to cook the food or do her household work. So this punishment is more or less confined to the well-to-do, or to the wife who shares her master's favours with others. The removal of the nose, while being more disfiguring, is also more practical. When the destiny is death, disfigurement is still considered desirable in bad cases. The victim will carry the marks of his disgrace into the next existence, and it is hoped that he will have to pay for it in some form at his second birth. He will not be happy, whether in the Hindu equivalent of Nirvana, or in his Mohammedan Paradise. Many cases occur of mutilation after death, even to the most intimate parts of the human body, both in males and in females; and it is always safe to assume that where this is found, the murder is the result of some sexual intrigue.

The owner of the knife was never identified. With the assist-



ance of the *chaukidar*, who had been standing in the street in the direction from which the men had run to the shop, five men were identified as having taken part in the chase. They lived in Ganga Din's circle, and were connected with parties who had been unsuccessful in litigation and had every reason for bearing ill-will towards the *patwari*. They were put upon their trial. The Sessions judge by whom they were tried happened to be a successful student of the law who was distinguished for his knowledge of the codes, his wonderful memory for decided cases and for the wise dicta of great interpreters of the law, and for his precise and untiring capacity for stating facts and unravelling the tangled mass of conflicting evidence which so frequently characterises modern criminal trials in India. He had two defects: he lacked a sense of humour, which sometimes prevented him from taking a broad view; and in his desire accurately to state the contents of the 'record', or written version of the verbal evidence, he occasionally forgot to state his conclusions of fact. He would often say that it was 'proved' by so-and-so, when he meant that it was 'stated'. He was much troubled, on this occasion, by the difficulty of fixing the guilt upon the leader of the chase, who had fallen over the basket, and who had been rough-handled by the shopkeeper before he had had time to recover himself. Nor was he able to decide who had used the knife.

In a carefully written judgment, he dwelt upon the fact that the investigating officer, who had arrived upon the scene the next day, and who had been unable to discover any details of the crime beyond what has been already set out, had proved an accurate plan of the premises. He came to the conclusion that the nose of the *patwari* must have been thrown away, as no one had seen it since. But he was satisfied by the evidence of the Civil Surgeon that it had been indeed removed, and that the face of the *patwari*, which he himself had seen, had been disfigured by 'grievous hurt'. After dwelling on the length and shape of the knife which had been picked up, he decided that it had been used to cut off the nose of Ganga Din. He arrived at this conclusion on the grounds that it was the only weapon found near the spot, and that the chemical examiner had found it to be stained with human blood. He also found that the said knife was an instrument used for cutting, within the meaning of the section under which the accused were charged, and that the commission of the offence was established. He held that it was proved by the *patwari* that

one of the accused had voluntarily committed this 'bold and rash act', without any reasonable provocation, and that at least two of the others had aided and abetted the principal offender. But he pointed out that the *patwari*, who professed to identify the culprit, must have suffered great pain, both when his nose was cut off and for some considerable time afterwards, and that as he was the owner of the nose, the subject of the charge, he was an interested party and a partisan witness. The judge might, it is true, have applied a well-known principle of the law, that when several persons engage in a lawless act with a common intention, all of them may be found guilty of an act done in pursuance of the common design. But after deep and earnest consideration, disagreeing with the assessor, who was a caste fellow of the *patwari*, and who was of opinion that all the accused were guilty, the court acquitted the accused and directed them to be discharged. So that not only did Ganga Din lose his nose, but the jail authorities lost, for what might have been a substantial period, a small addition to the number of those who grew the vegetables in the jail and cultivated the beautiful flower garden in the Governor's compound.

## IX

### A FALSE SCENT

THE brutal and altogether unprovoked murder of Bimal Prasad must definitely take its place amongst the unsolved mysteries of which the annals of crime are full. It is a striking illustration of the way in which men who have spent their lives in the investigation of crime may lose all touch with the real solution by following too slavishly a false scent. There is just a possibility that the Sub-Inspector was not in search of the truth, and that he allowed himself to become the tool of the real culprit. The ground for entertaining this suspicion will appear later in the narrative, and the reader must draw his own conclusions. But the case serves as a warning to honest detective officers against accepting too readily an apparently obvious conclusion from simple, unobscured facts. The case is also a striking instance, not only of the value of a court of appeal in criminal cases, but also of the way in which trained lawyers on both sides, and also the tribunal itself, may go completely astray by overlooking an admitted fact, the bearing of which on the general issue is not immediately apparent, but which, when once noticed, and followed up through its implications, may alter the whole aspect of the evidence. It is often said that we are apt to miss the things which are right under our noses, and the history of litigation shows that it is possible for everyone in the heat of controversy to miss a point of the utmost importance, which has become buried, or, as it were, lost in the crowd, by reason of its being an uncontroversial one.

Bimal Prasad was the head of an ordinary humble family of cultivators in an outlying village. He was quite a young man, and not particularly virile. There seemed to be a strain of debility on the male side of his family. The household consisted of his young wife, Musammat Amin Kunwar; her mother, Musammat Baguli; two of his paternal aunts, Musammat Piare and Musammat Munia, who were comparatively young; and his brother, Moti,

aged eighteen, who suffered from indifferent health. Musammat Amin Kunwar was an exceptionally beautiful and attractive young woman, and there were those in the village who said that she was not too well satisfied with her husband, and was quite aware of her fascination for the other sex and of her power of making conquests if she had the chance, though there was nothing definite against her character. On the night of the murder, the two brothers were occupying separate *charpoy*s, or cots, in the same inner room. The two aunts occupied two separate small rooms adjoining one another, each of which opened out into the courtyard, where Musammat Amin Kunwar and her mother slept together on the same *charpoy* in the open. In a corner of the courtyard, which was only a few feet square, closed in by ordinary mud walls, was a stack of *bhusa*, or hay and chaff. It was near the opening in the wall which served as the entrance, and at the end farthest from the room in which the two brothers slept. The entrance was closed at night by a rough sort of door on a chain. It would not be difficult for anyone to effect an entrance noiselessly, either by inserting his hand between the door and the door-post and removing the chain, or by climbing the wall. Cattle were tethered outside, and the house could be approached without passing either through or very close to the adjoining houses.

Moti's young wife was away on a long visit to her parents. Owing to the state of her husband's health, married life had very little attraction for her, and she did not get on well with the other females and particularly with Musammat Amin Kunwar. But this feminine incompatibility is very common in Indian village households, especially where the proportion of female members is high and one of them rather fancies herself, and it was not the real cause of her absence. Some months before, there had been a dispute between the two brothers about the inheritance. Their father had recently died, and the elder brother was accused of having possessed himself of more than his share, and particularly of some ornaments which had been worn by his mother, and which belonged to the family jointly. It is interesting to note how often the natural cupidity of mankind produces a strong leaning towards the principle of primogeniture, even in the families of uneducated and unsophisticated Indian villagers, who hold to tradition and custom with the same tenacity which they show in religious matters, and with whom the one ruling principle and guide in their matters of business and inheritance

is jointness. This departure from tradition and principle is usually more marked where the young male descendants are mere infants and the elder son undertakes a friendly division and distribution, and is sometimes even carried into formal proceedings, fraudulently conducted, in the Revenue courts. In this instance, Bimal Prasad probably regarded his younger brother as little more than an infant. It was not a great matter, but the parents of Moti's wife had taken umbrage and had encouraged their daughter to demand some of these ornaments for her own use. The dignity and patriarchal authority of Bimal Prasad had been much disturbed by this presumptuous conduct of a younger brother's wife, who occupies, at the best, a very subordinate position, and who had only quite recently joined the family circle. Strained relations ensued, and ultimately, at the instance of her parents, Moti's wife had left for her parental home. But, strangely enough, it was clearly established that the feud had not affected the relations of the two brothers, who appeared to continue on the best of terms.

For some days before the tragedy Moti had been far from well, and it was on this account that Bimal was sleeping in the same room with him. In the morning Bimal failed to appear at his usual hour for feeding the bullocks, and no sound was heard proceeding from the room where the two men slept. Musammat Baguli seemed to be anxious as to whether anything had happened, and after consulting with the other women she pushed the door open, which she was able to do without difficulty. A ghastly spectacle met her gaze. Her son-in-law was lying dead on his *charpoy* in a pool of blood, his skull smashed and the head and features mercilessly lacerated. It was at once apparent that the murderer had some grudge against the deceased which, in true Indian fashion, he had worked off upon the body of his victim while he had him at his mercy. Bimal Prasad had no enemy who was likely to feel like this towards him, unless it could be his brother Moti, if he had been secretly nursing a grievance over the family inheritance. A heavy chopper stained with blood lay on the blood-stained floor between the two beds. The younger brother lay on his back on the *charpoy*, quite motionless and apparently unconscious. On examining him closely Musammat Baguli found that he was alive, and, calling the other women into the room, asked Moti what had happened. The invalid jabbered something unintelligible in reply. She shook him and asked who had killed Bimal Prasad. Moti replied that he did not

know. The women made no further search, and broke out into the loud lamentations and ear-piercing cries and groans which are customary with them on such occasions. The sound of their dismal chorus soon brought some of the neighbours to the spot, but none of them found anything which threw further light upon the commission of the crime. No one at that time accused Moti, but it would have been strange if they had not already concluded in their own minds that he must be the culprit. The prosecution subsequently attributed the reserve originally shown by the women to their feminine timidity, mixed with a desire not to add to the number of family victims by fixing him with the crime. The village *chaukidar* arrived in due course, and he was shortly afterwards despatched to the nearest *thana* to make his report. Soon after his departure the *mukhia*, or head man of the village, arrived and made some inquiries of his own. He is always entitled, if not expected, to assist the authorities by making inquiries into anything reflecting upon the good name of the village. He remained on guard during the interval before the arrival of the police, and eventually induced Moti to bestir himself. An ugly fact was then discovered. He had risen from his bed and sat down by the door of his room. They examined his body, and under the light covering which he wore they found patches, rather than spots, of blood upon his chest and arms. According to the *mukhia* and the women, he more than once confessed to the crime, assenting to their inquiries rather than making any definite statement, except that on one occasion he added that he had killed his brother because he had deprived him of some of the property. Musammat Baguli then informed the *mukhia* that she had seen Moti wandering about in the courtyard during the night. She had been asleep, covered with wraps on account of the cold, and had awoke on hearing his voice. She had coughed and he had asked 'Who's that?' She had then looked up from under her quilt and had asked him what he was doing. He had answered that he had come out for an act of nature and had lost his way back to his room. She had told him which way to go and had seen him disappear in that direction. Musammat Piare then stated that the chopper belonged to her, and that she had hidden it for safety, before going to bed the night before, in the stack of *bhusa*, or chaff, in the corner by the entrance. The object of the midnight journey across the courtyard must have been to fetch the chopper. The Sub-Inspector thus found on his arrival an almost complete

chain of circumstantial evidence already established, with a motive which, if not very strong, was quite adequate for a murder by an Indian villager.

The dead body was despatched to the Civil Surgeon for examination. Meanwhile the Sub-Inspector engaged Moti in conversation. This contributed nothing to the general stock of information. But so far as a formal confession was concerned the Inspector did not trouble himself, as, from the statements of the women, the admissions of Moti were sufficient, together with the other facts, even if the confession to the *mukhia* was excluded from evidence as having been made to one in authority. What troubled the Sub-Inspector more was the parlous condition of health and mind in which Moti appeared to be. He mumbled and returned incoherent answers to all questions put to him. The Sub-Inspector at first thought that this was put on, and was inclined to try and bring him to reason by a little 'slapping'; but he eventually became convinced that Moti was in a state of high fever, bordering on delirium. This was attributed to the strain upon his physical and mental capacity resulting from the terrible deed which he had committed, and the Sub-Inspector decided that the only thing to be done was to send him straight off in custody to the hospital. There Moti remained for some weeks with a very serious illness, which nearly had a fatal termination. But he got over it and was committed to trial at Sessions, where he was convicted of the murder of his brother and sentenced to death.

His family were not well enough off to provide him with legal assistance, and were probably not sufficiently concerned to save him from the gallows to be induced to take steps to raise the necessary funds elsewhere. Under such circumstances, the Local Government of the United Provinces follow the humane and sometimes valuable practice of allowing the judge to provide the accused with counsel, the cost of which is thrown upon the public funds. Counsel, at a local Bar, selected for this purpose are not always experienced, and are necessarily handicapped by knowing nothing of the case except what they can glean in court from the record of the proceedings before the magistrate, and from the oral evidence given at the hearing at Sessions. On this occasion everyone concerned in the trial overlooked the importance of a report which had been made by the hospital doctor to the magistrate when the accused was released from

hospital. It showed that when Moti had been admitted he was in a condition of extreme physical weakness. He had been taking little or no food for some days and his body was emaciated. The doctor had ascertained from one of the women that he had taken next to nothing except great quantities of water to assuage his feverish thirst. The probable reason of the failure to notice the importance of these facts was that the report was made officially to the magistrate by way of explanation of the delay in sending the accused to court for the preliminary inquiry, and that the magistrate after perusing the document had ordered it to be filed, and that it had never been read in open court, and having served its purpose had been forgotten.

But when the case came before the High Court, as it was bound to do for confirmation of the death sentence, even if no appeal were filed by the convict, attention was drawn to this report, and a comparison was instituted between the violence of the blows which, as shown by the post-mortem, must have been delivered upon the body of the deceased, and the feeble condition of the accused, as disclosed by the hospital report. The only thing to be done was to summon the hospital doctor, the Civil Surgeon, and the female witnesses, and to take additional evidence. It often happens that the doctor who conducted the post-mortem examination is not examined as a witness at the trial. The supply of official doctors in India is limited. The Civil Surgeon may be stationed at a place some distance from that in which the Sessions Court is sitting. His time is fully occupied every day, and all day, frequently on matters of urgency, both at the civil hospital and at the jail, and if he were to attend sessions trials regularly, especially where such attendance involved two or three days' absence, the whole of his official work would be disorganised, with serious injury to the community. He is therefore summoned only by the judge himself in those cases where his presence is urgently required in order to clear up some question of fact. This practice, which is, no doubt, necessary in the public interest, is occasionally a source of embarrassment to the court of criminal appeal, particularly when some point arises which has been overlooked or inadequately dealt with in the trial court. On this occasion, the Civil Surgeon could only say what appeared to be obvious on the face of it, but what had not been, up to that moment, emphasised, that the victim had been killed by a number of heavy blows, delivered with great force. It looked like the work of a madman, or a man



mad with frenzy, who must have possessed a pair of strong arms. The first blow must have been delivered stealthily and with such force and direction as to beat down any possible resistance by the deceased. This evidence, given in the presence of the hospital doctor, enabled the latter to express his opinion with greater confidence. He developed in more detail the report which he had made to the magistrate on Moti's condition when he reached the hospital, and the history of the fever, debility, and want of nourishment, from which he was suffering at that time. He was quite positive, now that he had heard the Civil Surgeon's evidence, that Moti did not possess the requisite strength, either on the day of his admission or on any of the days immediately preceding, to perform the act of which he was accused. It was not a mere question of difficulty nor of degree, nor of a superhuman effort made in delirium. It was a physical impossibility for anyone in his condition to have made such a prolonged and resolute effort.

This, of course, was the end of the case. No court could convict of a capital charge in the face of expert medical testimony that the act of which the prisoner was accused was to him a physical impossibility. But further probing of the evidence of the women strongly supported the hospital doctor's view. Moti had not only been taking nothing but water, but he had been so weak that he was unable to raise himself from his *charpoy* without the help of a stick, and could only walk with assistance and that with difficulty. It was quite clear that the conviction was a miscarriage of justice.

It is interesting now to turn to some of the questions which certainly should have occurred to any investigation officer of experience who applied his mind to his task, when he first arrived on the scene. How did Moti know, if he had been lying all day ill on his cot, where to find the chopper in the dark? It had admittedly been hidden by one of the women, out of his hearing, and out of sight of his room. Why was it hidden at all that night, close to the entrance? How had Moti got there without assistance? How was it that Musammat Baguli had not seen the chopper in his hand when she woke up? How was it that none of the women had heard a sound while the murder was being committed within a few feet at least of Musammat Amin Kunwar and her mother?

At the trial the Sub-Inspector had said, in answer to a question in cross-examination, that he had heard a rumour in the village connecting the *mukhia* with the name of Musammat Amin Kun-

war. That was all. The *mukhia* had not been called as a witness, presumably because it was thought that any confession made to him by Moti would be ruled out, and the topic was not pursued. This introduces a feature in Indian village life, which, though it may be rare, is not unheard of in the disclosures made in the course of criminal trials. The *mukhia* may be a Don Juan. He wields no inconsiderable influence and authority in village life. I remember reading the story of a shooting party of Englishmen who were camping near a village, and who found themselves unable to procure from the village any milk or eggs or other local produce. Their servant, after making discreet inquiries, discovered that the *mukhia* had given orders that none should be supplied. He was offended about something. He may have heard that the *sahibs* had shot a peacock or unconsciously committed some other unpardonable offence against the village sentiment. The party of Englishmen took a bold course. They came to the village and sought an interview with the *mukhia*, but the worthy old gentleman, who wore a long flowing beard and an air of regal majesty, as he sat in the centre of an admiring circle of villagers, was adamant. Whereupon one of the sportsmen seized hold of a bucket of water which his servant had drawn from the village well, and threw it over the headman of the village. It was a rather risky game to play, but it had the desired effect. The *mukhia* saw that the *sahibs* meant business. They had guns with them, and there was no saying what they might try next. He did not care to expose himself to further insult and loss of dignity in the presence of his satellites, and with heroic self-control he assured the visitors that there had been a mistake, and that the contents of the village were at their disposal. The villagers followed suit, and were only too pleased at the turn of events which enabled them to dispose of some of their saleable goods at a more than reasonable figure. Thus the incident closed, and everyone was satisfied. The *mukhia's* word, up to a point, is law in the village, and it is said that there are occasions when, if he wants a young and attractive woman of a squeezeable caste brought to his residence at night, she is brought. That can only happen when the husband is complaisant. When he is not, other means are adopted.

The supposition that the *mukhia* or someone acting on his behalf was responsible for the murder of Bimal Prasad is the only one which fits the case. As it was a physical impossibility for Moti to

have done it, it is superfluous to discuss the motive which might otherwise have operated upon his mind. But there must have been a motive somewhere, and it is as certain as anything can be that the murder was committed by someone who came to the premises that night. Leaving the outer door on the chain only may have been the regular practice, but the placing of the chopper in the stack near the entrance was significant. It seemed curious, also, that the door of the room in which the two men were sleeping could be so easily opened in the morning. The blood patches found on Moti, though consistent with his guilt, were not inconsistent with his innocence. One would have expected to find a number of spots of varying size caused by the spurting of the blood from the body of his victim. But the patches which were found under his clothing might have been deliberately smeared, and if so, were done by someone who had his wits about him, because a man who attacks his enemy by night will often strip himself not only to prevent traces of blood on his clothing but also to make it difficult for his enemy to grapple with him. But perhaps the most significant incident of all was the assiduous attention of the *mukhia* to the scene of the crime, and his taking charge, as it were, during the absence of the *chaukidar* at the *thana*. There would be nothing remarkable in his visit to collect information, though it would be unusual. And if he went, he would be quite likely to try and get a statement from the inmates of the house, especially if anyone was disposed to confess his guilt. But he would probably not go alone in the ordinary course, and he would not remain, as this one did, but would almost certainly put some of the villagers in charge till the arrival of the police. If these inferences are correct, then it is certain that Musammat Baguli and her daughter, and probably also the two other women, were acting in collusion with the *mukhia*, and could not be expected to possess the moral courage to interfere or to expose the plot. It is difficult, also, to resist the conclusion that the Sub-Inspector, even if he was not behind the scenes from the first, lent himself to the plot and allowed dust to be thrown in his eyes for the usual consideration. The sequel is not known, but the plot, if it was one, succeeded, and it could hardly have done so if it had not been for the supineness of the Sub-Inspector.

## X

### THE BASE COIN

THE murder of the *bania's* little son Kirpa Ram is another illustration of the frequent difficulty of arriving at the truth about Indian village crimes. There were two possible culprits and only two. In either case the motive was trivial, and, ordinarily speaking, wholly inadequate for the murder of a harmless little boy. Whichever of the two was the culprit the crime was perpetrated with a boldness which amounted to effrontery, and at an hour when almost anyone might suddenly have come upon the scene. The disposal of the body was carried out at great risk, and yet no positive evidence about it could be obtained. Each of the possible culprits was guilty of compromising conduct sufficient to bring suspicion upon himself, and yet one at least gave evidence which suggested the guilt of the other. Each accused the other, and neither of them was convicted. Only one of them could have done it, but it was impossible to say which, and at the same time impossible to deny that there was grave suspicion against both. The one thing certain was that both could not have done it. They were enemies and not likely to act in concert. Paradoxical as it may sound, it is possible out of the admitted facts to make a plausible case against either. If such a thing were possible, it could be argued that both of them had committed the crime at different times and by different methods, and that each had so manœuvred as to throw the suspicion on the other, although there could have been only one crime and only one criminal. Experienced police officers will recognise the paradox as by no means a rare characteristic of unsolved mysteries in India. Those who are disposed to blame the police for their failures may study the facts of this case and decide for themselves where the truth really lay.

The two men suspected were named Latif and Ghafur Khan. They were both Mohammedans and residents of the same village.

Latif was a professional wrestler and like many of his craft something of a loafer. He made his money quickly and at long intervals and spent it on gambling and women. He was a handsome, well-built man, and both strong and active. His occupation required him to keep physically fit and popular with the public. He was a pleasant, good-natured fellow, and the last man one would expect to wish to do anyone an ill turn. His encounters with the other sex were an uninterrupted series of conquests. At this critical point of his career he was frequenting the company of a woman of easy virtue in the bazaar, and he was also believed to be carrying on an intrigue with Musammat Saidan, the wife of Ghafur Khan. There was, therefore, no love lost between the two men. There was nothing out of the ordinary about Ghafur Khan. He was well-to-do and jealous of his wife.

Bachchoo Lal was the principal *bania*, or grain merchant and money-lender in the village. He had two sons, Ram Ratan, an adult, and Kirpa Ram, a smart boy of about eleven. Bachchoo Lal was often absent on business and Ram Ratan looked after another shop some distance away. It therefore fell to the lot of the youth Kirpa to sit in the village shop during the day and attend to the customers. The gay and indolent wrestler found the shop a convenient *baithak*, and the boy welcomed the patronage of so distinguished an Olympian. It was suggested as one of the points against Latif in the charge subsequently made against him that he had designs on Kirpa, but that his attentions were not welcomed by the boy. It came to be noticed, however, that as often as Latif spent his time sitting at the shop, articles were afterwards found to be missing. They began to disappear even from a locked *almirah* or cupboard. In some bazaars there is quite a fair trade in the making of duplicate keys. This continual loss of small articles from his shop caused the *bania* much concern. He did not relish an open breach with Latif and he eventually consulted the *mukhia*. This gentleman had not lived fifty years in the village for nothing, and he advised a new lock for the *almirah*. Prevention, he said, was better than prosecution, particularly with a Mohammedan *darogha* in charge of the *thana*, and the possibility of another Mohammedan as magistrate to hear the case. So a new lock was procured.

Shortly after this, things began to happen. Ghafur Khan sent his young son to Bachchoo Lal's shop to purchase four annas worth of goods. Kirpa Ram took after his father and was a

sharp-witted youth. He suspected the coin, but did not like to say so. It turned out that the four-anna piece was, in fact, a base coin, and when Bachchoo Lal examined it on his return to the shop he would have none of it. So he sent Kirpa Ram with the four-anna bit, and a complaint, to the house of Ghafur Khan to change it. It would have been better if he had gone himself, but his natural timidity got the better of him, and if anyone was to get a thrashing from the masterful Ghafur Khan for playing tricks and making false accusations he preferred that it should be his little boy. It was just after sunset, and though it was getting dusk it was not dark, and there were plenty of people about. This makes what afterwards happened all the more mysterious. Kirpa Ram went alone. He was never seen again alive. His corpse was found four days later, much decomposed, about half a mile from Ghafur Khan's house, but quite close to the *abadi* or residential quarter of the village, concealed under a heap of rubbish. It had been dug in and well covered with refuse and leaves, but this was insufficient to retain the stench which disclosed its existence. Kirpa had been wearing a pair of shoes and a round brown cap.

About eight o'clock in the evening, when he must have been gone about an hour and a half, his father and brother began to get anxious. Ram Ratan set off to the house of Ghafur Khan, taking with him an old servant and a lantern. Another servant and some friends followed up behind. Ram Ratan's reception at the house of Ghafur Khan was curious. He found the door closed, and he neither saw nor heard any sign of Ghafur Khan himself. On knocking at the door he got a reply, after some delay, from a female voice. But the door was not opened, and he had to explain from the outside the object of his visit. He was told by the voice that nothing had been seen of Kirpa, and that no one had heard anything about a four-anna piece. This conduct in not opening the door was of course highly suspicious. The inmates may have retired for the night. The visit of Ram Ratan was a very natural one, and some curiosity might have been expected from the inmates about the mysterious disappearance of the boy. Ram Ratan was in a state of agitation, which had not been diminished by his journey to the house without hearing anything of Kirpa. And as the coin had undoubtedly come from Ghafur Khan, he was clearly interested in knowing that a question had been raised about it, if he had not already heard so. But the matter was treated as of no importance, and Ram Ratan could

get no further. Ram Ratan and his servant then showed a strange lack of enterprise. Their subsequent conduct was even more unfortunate. The party following up behind had made a startling discovery. In the lane leading to Ghafur Khan's house they had picked up a pair of small shoes. They brought these to Ram Ratan, who immediately identified them as Kirpa's. Yet he did nothing about them. The party proceeded to search all round the village and in every dark place with the feeble light of their lantern, asking everyone they met for news of the missing boy, but they could learn nothing, and eventually returned home to report the result of their mission to the grief-stricken father. Had they possessed the ordinary courage or decision to go back to Ghafur Khan's house, and to insist on the door being opened, after reporting the discovery of the shoes, they might have been met by a determined refusal. But if they had put on a bold front, they would have had a reasonable chance of solving two questions which must remain for ever unanswered. Was the missing Kirpa at that moment dead or alive, in the house of Ghafur? Was Ghafur at home?

But all that Bachchoo Lal and Ram Ratan did was to go to bed and to set out the next morning to the *thana* to report the circumstances of Kirpa Ram's sudden disappearance. In doing this, they took the strange line of suggesting, not the suspicions which they really entertained that Ghafur Khan had been guilty of foul play, but that Kirpa had run away through fear of getting into trouble, either for having dealt with, or for being in possession of a bad coin. They made quite a long story out of the incident. It is a remarkable illustration of the inherent dread which the villager seems to have of getting into the clutches of the law and of being somehow or another involved in a totally unmerited charge, from which he will find himself unable to escape. It is worth while, in this connection, to relate an incident in my own experience, which illustrates this strange mentality. I was once walking through a bazaar with my *munshi*, or teacher of Hindustani, and I stopped to examine an open stone drain or large gutter which ran past a row of shops and which seemed to me a very effective method of carrying away surface water and small refuse. But what particularly interested me was a solid paving stone which had been laid over the drain and which led from the street into the shop. It indicated care and method above the average. After I had walked away to my car, the shopkeeper

sent a messenger running after the *munshi*, with whom he held an agitated conversation, after taking him on one side. I was told by the *munshi* that the shopkeeper had sent word to say that he was prepared to carry out the *sahib's* wishes in every way, and that he prayed for his long life and prosperity, but hoped that no proceedings would be taken against him! The distracted Bachchoo Lal assumed that Kirpa had been frightened away by a similar fear of the unknown. The police were able to assure him that if that was all Kirpa had done, he had not committed any 'cognizable' offence, and that it seemed to them unlikely that he had made away with himself, because anyone absconding would not leave his shoes behind him. On the other hand, the Sub-Inspector decided that it was a case for investigation, and he started off at once for the village.

He first directed his attention to Ghafur Khan. His inquiries in the village elicited nothing beyond the little that was already known, namely, that Latif had been showing attention to the deceased boy, while the latter had been last seen on his way to Ghafur's, and his shoes had been found near the house. Ghafur Khan's house was searched, but nothing was found which threw light on the crime. In spite of this, the Sub-Inspector decided to arrest Ghafur Khan. He no doubt hoped that he would induce him to make a confession or a statement which would lead to further discoveries. It was probably for this reason that he detained Ghafur Khan in custody only, and kept him with him while he remained in the village, instead of sending him off in charge of a constable to the lock-up. In taking this course the officer was sailing rather near the wind, but was showing sound judgment, and doing the only thing which was likely to give him a real clue. The regulations about the custody of suspected persons after arrest are strict. They are not allowed to be kept in police custody longer than is absolutely necessary for the purpose of making arrangements for sending them to jail, where they cease to be under police control, and, in any case, not longer than a period of twenty-four hours. This is one of the provisions by which it is sought to prevent improper treatment by the police of accused or suspected persons for the purpose of extracting confessions from them, and to provide a satisfactory answer, by way of anticipation, to the attacks which are commonly made upon the police, particularly when the man has been put up to make a formal confession. The investigation officer has to make a



daily return of his work and of the statements taken by him from witnesses and others whom he may have interviewed. This report has to be sent daily to the superintendent, while counterparts are kept in the records of the *thana*. Much interest has for years been imported into trials at Sessions by the efforts of the Bar to get hold of these daily reports, or 'the diary', as it is called. The recently amended Criminal Procedure Code has extended the rights of the accused and his counsel to see or obtain copies of 'the diary'. We are not concerned here with an exact statement of the legal position. It is much to be feared, however, that the efforts of the public, which really means the legal profession, have defeated their own ends in this matter, as the entries in the diary to-day are not so full as they were in the days when it could be consulted only by the court, and then only in the interest of the accused, and it is probably true to say that the investigating officer's superiors are not so strict as they were in requiring a full daily record, recognising, it may be presumed, that if the detail of every stage of an investigation is to be submitted to public examination in open court, the interests of justice will not be served. Of the two evils it is probably thought that more economy and reserve in the daily disclosure made to the Superintendent of Police about the course of the investigation, is the less detrimental. However this may be, the Sub-Inspector, in the matter of the arrest of Ghafur Khan, would probably keep open a way of retreat for himself. Ghafur Khan would certainly regard it as an arrest, and so, for all practical purposes, it would be. But it would not be so entered in the police diary. For this intermediate stage between complete liberty and incarceration in jail awaiting trial—a sort of purgatory—sub-inspectors employ, when giving their evidence, one of two delightful synonyms. 'I only kept him under observation', they say; or, 'I gave him permission to be present'! The presence referred to would be attendance, compulsory, of course, at the interesting gatherings which an investigating officer will hold, under a shady tree, or at some other convenient spot in the village, of those whom he has called together, and of others to whom he 'has given permission to be present' in order to talk the thing over. These meetings are often productive. If the diary in this case had been consulted it would probably appear that there was no record of any arrest of Ghafur Khan. The Sub-Inspector must have appreciated that there was no substantial case against him at that stage, and that if he had

sent him off to jail, he would either have had to begin proceedings before the committing magistrate with the little or nothing that he had, or to apply for his release, and so probably destroy any chance of arriving at the truth. So he remained in the village for some days, living on the community, which is often in itself an effective method of inducing villagers who know anything to talk, in the hope that the length of his visit will in that way be curtailed, and 'keeping Ghafur Khan under observation'. Ghafur Khan naturally got rather tired of this, and meanwhile the dead body of Kirpa Ram was found, as has already been described. Now, if Ghafur Khan had continued to hold his tongue the investigation would have come to an end then and there, and any attempt to fix the guilt would have had to be abandoned. But there were reasons, as will be seen, why he must have been feeling very uncomfortable. Kirpa Ram had clearly been murdered, and the efforts of the Sub-Inspector would certainly be redoubled by this discovery. There were people who knew things, and who also knew that he knew. He was not over-confident about his own wife, whom he suspected of having transferred her affections to Latif, and who might at the same time be frightened by the police, and embrace an opportunity of getting him out of the way. So he decided to meet trouble half-way, and the Sub-Inspector could have felt no surprise when Ghafur Khan, on being told with much *empressement* that the murdered body of the boy had been found, and that the murderer could not be far off, informed him that he desired to make a statement. This was what the Sub-Inspector had been waiting for so patiently.

Ghafur Khan then said that Latif had killed Kirpa Ram and that he could prove it. The boy had come to his, Ghafur Khan's, house on the evening in question at the time of lighting lamps, which would make it about half-past six. He had brought with him the four-anna piece which Ghafur Khan's son had given him at the shop that afternoon, and had complained that it was counterfeit, saying that his father had sent him to get change for it. Ghafur Khan had replied that the coin was all right except that it was worn, and that he had taken it back thinking that he himself would find no difficulty in putting it into currency again, and that Kirpa had left with the change. Not long afterwards he had had occasion to leave his house for an act of nature, and that while he was so engaged his dog, which had followed him out, started barking. He went to the place and saw a black

obstacle in the road, and on coming up to it found that it was a man. He had challenged him and the man had replied, 'It is I, Latif. I am sitting on the dead body of Kirpa Ram.' Ghafur had then asked him, 'Why do you behave like a tyrant? What benefit is there in killing Kirpa? If you are found you will be hung.' Latif had then answered, 'He has given me much trouble. He has been making false allegations against me. He has told his father that I, Latif, have taken things from the shop. He will tell it no more. I have killed him and it is finished.' Ghafur then went on to say that Latif had made a strong appeal to him to assist him in concealing the body, but that he had refused. Latif then implored him to say nothing. There would only be a hue and cry when it was known that the *bania's* son was lost, and it would soon be forgotten. He had called upon him to swear to secrecy, and he, Ghafur Khan, had taken a solemn oath never to repeat to anyone what he had seen. He had also urged Latif to get away as soon as he could, and dispose of the body in some place where it would not be likely to be found. Latif had gone off carrying the body while he, Ghafur, had returned to his own house.

There were some weak points about this story. But if it were to be accepted as approximating to the truth it got rid of the chief point against Ghafur Khan and explained his suspicious refusal to open the door to Ratan Ram and his servant. The Sub-Inspector asked him to show him where he had seen Latif sitting on the dead boy. Ghafur Khan led him to the spot, which happened to be close to the place where Kirpa Ram's shoes had been found. This seemed to the police officer rather like what the courts call corroboration. So he asked Ghafur Khan if he happened to know where the small round cap was which Kirpa Ram was said to have worn that evening. Ghafur Khan then became excited and explained that he had quite forgotten to mention the cap, but that he had picked it up after Latif had gone off with the corpse, and had kept it to be used as evidence. This was a candid admission from a man who had sworn not to give any evidence. He had not seen the shoes. He added, however, that it had occurred to him afterwards that the cap might be evidence against himself as much as against anyone else, and that that was one reason why he had given orders that no inquirer after Kirpa Ram should be admitted to his house. The Sub-Inspector did not like the cap incident. He was getting bemused in the vicious circle

in which he seemed to be moving, and he decided to take no action on the cap, but to 'wait and see'. He made no mention of it in the diary of the day's work. Somehow or other Ghafur Khan blurted it out on the trial of Latif, and the defence made a great point of the fact that the incident had been kept back by the Sub-Inspector. It is impossible to withhold one's sympathy from the Sub-Inspector. He had been starved since he came to the village, not in the ordinary signification of the term, but for lack of information. He was now getting an *embarras de richesse*, but each new item seemed to conflict with the last, and he was making no headway. He decided, however, to concentrate for the moment on Ghafur Khan's statement and to go for Latif. So Latif was arrested. The search of his premises disclosed some articles which Bachchoo Lal declared had been missed from his shop, and the unfortunate Sub-Inspector got into trouble because Bachchoo Lal reported him to the District Magistrate for having refused to send up a case of theft against a man whom he was trying to convict of murder. It was hard upon him because he did no more than tell Bachchoo Lal to go and make a complaint at the *thana*. But Sub-Inspectors do not like having adverse reports made against them, as they have plenty of enemies and also communal rivals amongst their own colleagues who make the most of such incidents even though they are totally unfounded. Bachchoo Lal was quite wrong, but he found it easier to send a complaint in writing to the District Magistrate than to waste much time and some *baksheesh* in going to the *thana* to make a formal report, and he reckoned on getting back his goods in either event. He lost his temper with the Sub-Inspector and entirely denied having said that he had had reason to complain of Latif's attempts on deceased Kirpa's virtue. But the Sub-Inspector finally succeeded in getting some independent evidence against Latif. A respectable Brahman came forward, though somewhat late in the day, and said that he had gone to the shop of Bachchoo Lal the day before Kirpa Ram's disappearance and had heard Latif quarrelling with him. Latif wanted to buy some tobacco, and the smart youth had asked him why he troubled to do that when he could always steal what he wanted. Latif had thereupon become incensed, and had threatened him, saying 'I will see you another day'; an expression frequently interpreted as a threat of murder. Musammât Rashidan, the bazaar woman, on being interviewed, handed over to the police a small knife

which was identified as the property of the deceased Kirpa Ram. It had been handed to her to keep in safe custody by Latif, who had been rather mysterious about it. He had told her that it belonged to Kirpa.

On this evidence Latif was charged with the murder of Kirpa Ram, and Ghafur was sent up to the magistrate to have his statement recorded as a witness who was thought to be likely to try and run away from what he had said. This procedure, which resembles the formal recording of a confession, is permitted by statute in certain cases within the discretion of the magistrate. The police had been troubled as to whether they ought not to charge both men before the magistrate, but Ghafur Khan's statement was not a confession of murder, and though it did disclose an offence under the Penal Code, there is no offence in India corresponding precisely to the English offence of being 'an accessory after the fact', and it was decided that there would be difficulty in using the statement of Ghafur Khan against Latif, if they were tried together, and unless he were made a witness.

The prosecution relied strongly on the suggestion that Latif had deliberately put the shoes of Kirpa near Ghafur Khan's house in order to create evidence against him. There was no evidence of this, and the suggestion involved the further difficulty that there was no evidence that Latif knew anything about the four-anna incident, or that Kirpa Ram would be going to Ghafur Khan's house that evening. He might have been on the look out for Kirpa Ram and have met him by chance, but Kirpa Ram would almost certainly have avoided him and would not have consented to accompany him to a place where there was no one about. The contention based on the knife deposited with Musammam Rashidan was far-fetched. The woman was unable to fix any date for the incident. It was a small pocket-knife and not the sort of weapon for a murder which could be effectually accomplished in other ways. The incident was certainly a peculiar one. If it had happened after Latif had heard of Kirpa Ram's death, it might be due to the fact that Latif preferred not to have anything of Kirpa Ram's, which he had stolen, found upon him. If he had used it on the boy and wanted to get rid of it there was nothing easier than for him to have thrown it away. The medical evidence gave no assistance. Decomposition was too far advanced to enable certainty to be reached on many points. The most that

the autopsy showed was that death might have been due to strangulation though that was not necessarily the cause. Appearances also pointed to 'shock', or heart failure, which might have been brought on by strangulation, but which might also be due to other causes.

The case therefore fell to be determined on the evidence of Ghafur Khan alone. He did not make a good impression. He had to admit that he had entertained suspicions against Latif about his conduct with Musammat Saidan. He admitted that he had given orders that Kirpa Ram's visit to his house should be denied. He was unable to produce the four-anna piece which he had received back from Kirpa Ram. He said that he had spent it, but he could not say where. He said that he had thrown away the cap. Latif, in his statement from the dock, improved on this by alleging that he had seen Ghafur Khan one morning with a similar cap in his hand which he was surreptitiously throwing away. The removal of the body presented a difficulty. If the boy were murdered indoors and the body kept there till dead of night, the removal might have been accomplished with comparative ease. On the other hand, for Latif to have done it single-handed, carrying it, burying it, and concealing it, when people were still moving, and at a spot which was really part of the village, seemed incredible. Latif was rightly given the benefit of the doubt, and the reader, who is in possession of all that is known, can answer for himself the question which baffled the police and the courts, 'Who killed little Kirpa?'

## XI

### THE FALSE CONFESSION

A GOOD deal of scepticism exists in the popular mind in India about the trustworthiness of confessions made by accused persons, and about the methods adopted by the police to extract them from the illiterate, timid, and impressionable people with whom they have to deal in the investigation of crime. The precautions which have been taken by the legislature to secure that confessions and cognate statements amounting to admissions, and qualified confessions made to the police, shall not be received in evidence unless duly recorded, under the most precise and meticulous regulations, before a magistrate, and the further precautions daily taken by magistrates and judges to see that confessing persons are protected against themselves, and that their statements shall be supported by independent corroboration before they are accepted, have been fully discussed in the Introduction and need not be repeated. That false confessions are sometimes made in the hope of purchasing immunity, by men who are entirely innocent, and that confessions, untrue in detail, are made by guilty men, is undeniable. There is all the difference in the world between these two classes of untrustworthy confessions. In the latter case, they are almost invariably retracted when the accused finds that he is not going to receive a pardon, or when a lawyer is employed to conduct the defence. Unfortunately, in the conduct of criminal defences, a point which has once succeeded, and which has established the innocence of an accused man, such as an alibi, an untrue confession, or an attack upon the police, is seized upon by the lawyer as 'the one hope of his calling'. The lawyer, and the general public, whose views are shaped by, or adopted wholesale from, those of the lawyer, argue from the particular to the general. One known case is docketed, filed, and carefully put away, to be brought out again and again as occasion demands, for use as a precedent, as though men in their ordinary every-

day behaviour, were guided in the same way as a lawyer is guided by precedent on a question of legal principle. It has already been said that the police have often been proved in the past, and are still sometimes shown, to be guilty of improper conduct in putting pressure upon the accused to confess. It is difficult to discuss an expression, the meaning of which is obscure, but it would be undoubtedly true to say that they are often guilty of what are called 'Third Degree' methods, and occasionally of ill-treatment which would put 'Third Degree' methods altogether into the shade. But it would be safe also to say that, if statistics upon the subject were available, it would be found that these methods have been applied in the vast majority of cases to men who have something to confess.

The present story, which no stretch of literary licence can justify inclusion in a collection of 'Village Crimes', is deserving of attention, both because it is a quite exceptional one, and also because no 'Third Degree' methods were employed. The accused, Chandra Das, was an educated Bengali, with a sound knowledge of English, who had had a university education, and was probably one of that much-advertised class of aspirants to clerical employment, 'The Failed B.A.' His father, in whose shop he worked, was a good English scholar, and had many acquaintances as well as customers amongst the large English-speaking community in the city in which he lived. He wrote out his false confession, after going through a quite intelligible mental process of reasoning, and after weighing arguments which were quite honestly and almost reasonably presented for his consideration. There is a touch of humour, grim though it may be, and catastrophic though the incident nearly was, about the way in which it happened.

Chandra Das arrived one morning at the *kotwal* in the city and announced that he had to report the death of his wife, who had hanged herself. He was in an agitated and nervous condition, and presented all the appearance of one who had just received a severe shock. The *kotwali* was not there. He was out on important business, and was not expected back for some time. Chandra had a talk with the *muharrir* or police clerk, a very astute gentleman, well versed in the mentality of criminals and complainants, whose duty it is to enter the reports of those who come to lay information about criminal offences. There is a *muharrir* at every police station, and he is said to experience great difficulty in writing out and reducing into intelligible, chronological form, the



rambling statements which are daily brought to him, until his palm has been oiled. On this occasion Chandra Das had not got very far with his sad story before the *muharrir* put down his pen and considered. Stroking his chin thoughtfully, he shook his head, and said, 'The *darogha-sahib* will never believe this'.

Now, the *darogha*, to use the term colloquially applied to the Station Officer, or Sub-Inspector of the *kotwal*, or central police station, in a big city, is a man of great importance and authority. He is generally of considerable ability, splendid physique, majestic appearance and sterling character, who has risen high in his profession by sheer merit. He is continually in touch with the Superintendent of Police, who has a residential bungalow, with a large office and staff, in any big station, as this was, and is universally feared and respected by all classes in the city. He has to deal with many big situations. What he does not know about law, crime, and the affairs of most people in the bazaar is probably thought to be not worth knowing. His opinion with the average man would carry great weight, and especially so with a timid man in a difficulty. Chandra Das had done well to come straight to the *kotwal*, though he would have done better to have sought the advice of a male relative or a lawyer, and to have taken him with him, and better still, if he had happened to find the *darogha* in. Had he done either, this story would probably never have been written. Probably also, if Chandra Das had not been a Bengali this story would not have been written. The Bengali character is familiar to most English readers. A first-rate bookworm, a wonderful linguist and a ready talker, an industrious student, with a quick and subtle mind, the Bengali has always been more in touch with Englishmen and English minds than most natives of India. But without dwelling upon his other characteristics, he has certain outstanding drawbacks. He lacks virility, physical strength, and moral courage. Both his body and his mind seem to be of soft, pulpy texture. Macaulay attributed it to his continually living in a vapour bath. Whatever the cause, he often crumples up under the strain of either physical danger, or mental anxiety. The resultant of the contact between the bereaved and harassed Bengali and the incredulous and all-powerful *darogha* seems to have struck the shrewd *muharrir* immediately. He put his finger on the weak spot. 'The *darogha-sahib* will never believe this.'

Seeing that he had made an impression, the *muharrir* went on to

enlarge upon the possibilities. The wretched Chandra Das would have to be detained in custody. The *darogha* would have to go and search the premises; have the dead body examined by a doctor, and a post-mortem report made. Had Chandra Das any witnesses to the act of suicide? No? That was very awkward. Cases of strangling an unfaithful wife by a husband—a perfectly justifiable, if not even a meritorious proceeding, said the *muharrir*, if it were not for British rule—were by no means uncommon, especially if the husband was unhappy, and desired to possess himself of his first wife's jewelry. It was also quite usual, and even natural, having regard to British justice, for the distracted husband to hang the body on a beam, in order to simulate a case of suicide. It looked to him, the *muharrir* said, very much like a hanging case all round, if the *darogha's* suspicions were aroused, and he found anything at the house to confirm them. There were reasons, as will be seen, why this last observation, which was probably only a chance shot, went home to the fainting heart of Chandra Das. The *muharrir* said at the trial that Chandra Das was very pale and agitated while he was at the station.

This account of what happened at the interview is taken from the statement which Chandra Das made on the first available occasion, namely, before the committing magistrate. It was substantially denied by the *muharrir*. They were the only two present at the interview, and it was of course a vital question how far Chandra Das was to be believed about it. He asserted that, on being assured by the *muharrir* that this story of his wife having committed suicide would never be believed, he asked the *muharrir* in a helpless sort of way what he had better do. The *muharrir* then told him that if he had killed his wife in a fit of passion, on account of infidelity, he would not be hanged. It would be treated by the Sessions Judge as a case of 'grave and sudden provocation', and the offence would be reduced to one of 'culpable homicide not amounting to murder'. The most that he would get would be 'transportation for life', and that as the British forces in Mesopotamia were badly in need of labour for digging trenches, and other works, the Government of India were organising labour parties to send them there, and were taking men from the jails to make up the required number. All transportation-for-life men were being sent in this way, and if Chandra Das confessed to having killed his wife in a fit of passion on account of her infidelity, he would be so dealt with. He argued

that it was quite an attractive proposition, and the chance of a lifetime. The men were well fed, and well looked after. They were first trained, and then sent down to the coast, and across the *kali pani*, or 'Black Water', as the sea is called by Indians. He would have a comparatively free life in the open air, in new surroundings, and a new country, which he would otherwise have no chance of seeing. A large number of prisoners had already gone, and the *sarkar* had promised them that, on their safe return after the war was over, their sentences would be remitted.

There was a substratum of truth about this statement. The strong probability is that the plan which the Government had adopted for utilising the labour of the inmates of their jails for service in Mesopotamia was well known to the *muharrir*, although the police and the jails are quite distinct branches of administration, while it was not likely to be known in the bazaar, being still in its infancy, though it might be known to a few lawyers who were engaged in public work. It is possible that the plan could have been explained to Chandra Das, later on, by his lawyer, or by his father, but the story which Chandra Das told would be an exceptionally ingenious and unlikely one for anyone to have invented. The *muharrir*, if it was in truth he who originated the idea, was guilty, probably quite honestly, of two serious over-statements. His knowledge of the defence of 'grave and sudden provocation' was not so complete as that of the average villager. Cases occur in which the cultivator, returning to his house, finds his wife in the very act of committing adultery with her paramour, and kills one or both of them on the instant. This will generally occur in the day when the husband is at work in the fields, and the paramour having taken advantage of this, the husband arrives unexpectedly on some pretext or another. But cases more frequently occur in which, although he has good ground for believing that his wife has been unfaithful, the husband does not catch her in the act, but being told by neighbours that such an incident has occurred on a given occasion, loses his patience, and nursing his grief, finally makes a murderous attack on his wife during the night. But in many of these cases the husband declares that he found the two together, although it is clear that he could not have done so, and that in a fit of uncontrollable shame and rage, he put an end to them. This commonly told story is due to the very general knowledge which prevails amongst villagers that the *sarkar* takes a merciful view of killing

if the parties are discovered in the very act, and 'sudden' provocation is established. If Chandra Das had been equal to reflecting at all carefully he would probably have realised the importance of the difference between the two situations. The mistake was one more likely to have been made by the *muharrir*. It was a grave error to make in a concocted story. The other over-statement was that prisoners under sentence of transportation for life, or indeed of any transportation, were being taken. Transportation men were not drafted into parties, at any rate in the earlier stages, though some of them may have been later on. The scheme was carried out with great circumspection, and only prisoners under sentence of 'rigorous imprisonment', or hard labour, were taken, and then only those who had not been guilty of acts of violence, and who had served some part of their sentence, and had earned marks for good conduct in jail.

But according to Chandra Das, the proposal seemed sufficiently attractive. He had arrived at the *kotwal* in a state of great agitation, and had been taken aback and horrified by the *muharrir's* incredulity. With very little opportunity or capacity for well-balanced reasoning, the suggestion made to him seemed to be the better of two very unpleasant alternatives, and, on the principle of 'safety first', to be the best way out of his troubles. So he sat down, and wrote out the following confession:

'I am the son of Mahandra Das. He keeps a book shop, and a general shop in the city. He is now in Calcutta. I was married to my wife five years ago. Her age was then the same as mine. I am now about twenty years of age. I do not know, but I have heard so. I lived with my wife in the city, and worked with my father. She was not strong, and sometimes her health was not good. She did not keep *pardah*. She was not always obedient. We did not quarrel, but I told her she went out too much. Since some weeks, I found in her box many love-letters. I was very much distressed and shamed, and I spoke to her about it. She got angry, and said she should do as she liked. I believe she has been carrying on an intrigue with some man. I am away most of the day at my work. I did not know the name of the man. I asked her who he was, and she did not tell me. I did not speak to anyone about this, but I beat her, and she said she would not see the man again. Yesterday when I came home for my evening meal, I searched and found a letter. It was a love-letter. It was in the same handwriting. I got angry, and told her she would give me a bad name. I told her I would speak to her parents, and that I would not keep her with me. I told her I would send her to her parents' house. In the night, I was very much distressed and could not

sleep. I thought much about my troubles, and I wanted to put an end to my shame and dishonour. I did not know what to do. My head was very bad. I had fever and could not think. I felt mad. Just before sunrise I got up. She was sleeping. I could not bear to see her. I tied a silk scarf round her throat, and put a white cloth over her head, after she woke up, and opened her eyes. I stuffed one end in her mouth, so that no one should hear her screams. She kicked, and tried to struggle, but she was too weak. She was lying on her back. She did not speak, so I pressed my knee on her chest, and tied the scarf tighter round her throat. The struggling stopped and she ceased to breathe. Then she lay quite still, and I saw that she was dead. I became frightened. I did not know what to do. First I tried to restore her by rubbing. Then I decided to hang the body on a beam in the room. This I did by lifting it on to a table, which I dragged under the beam. Then I put the scarf round the beam. I raised the body and drew the table away and came here to make a report that she had hung herself. She was of bad livelihood, but I was not in my proper senses when I pressed the life out of her.'

Chandra Das was put up before a magistrate the same day, and repeated his confession. The *darogha* went to the house, and made a cursory examination. He had the body taken down, and sent it in charge of a constable for a post-mortem examination. It happened, as has already been observed is too often the case, that the examination and report were superficial, and inadequate for a thorough investigation into the real cause of death. The report seemed to bear out the statements made in the confession. Meanwhile, Chandra Das had communicated with members of his family, who sent a telegram to his father in Calcutta, in the name of Chandra Das, saying that he had confessed to the murder of his wife, and was in custody. The distracted father came at once. He could not believe the thing was possible, and immediately sought an interview with his son in jail. He asked him what in the world had induced him to take his wife's life. He had always seemed such an affectionate husband, and had shown great devotion to her, particularly during her attacks of ill-health. The son then told his father that he had not killed her at all. The father was heart-broken and in tears, but the son seemed to regard the affair with a sort of philosophic indifference. The father naturally asked how it was that he had been told that Chandra Das had made a confession before a magistrate, and the son then repeated the interview he had had with the *muharrir*, with which the reader is already familiar. The father then, without delay, did the right thing. He went to an experienced lawyer,

and told him the whole grim story, and also informed him that he was in a position to prove that the deceased woman was known in the family to have suicidal tendencies. The lawyer immediately had an interview with Chandra Das, and gave him the excellent advice—advice rarely given, or if given, rarely acted upon—not to wait for the first hearing, but to address a communication forthwith to the magistrate setting out the means by which he had been persuaded to confess, and stating that the confession was untrue, and withdrawn, and that his wife had really committed suicide.

Chandra Das was committed to trial, as was almost inevitable after his confession, although some magistrates might have hesitated. His defence had the merit of having been put forward at the earliest possible moment, namely, during the inquiry before the committing magistrate. The prosecution had no evidence to tender beyond the confession and the medical testimony, except two small facts proved by the *darogha*. The first was that when he went to the house to see the dead body some cheap glass bangles of the kind commonly worn by all classes of women in a humble walk of life were lying broken on the floor. The second was that the deceased's jewelry was locked in a box which the accused said was his, and of which he had the key. Some argument was founded upon the broken bangles, which were relied upon by the prosecution. It was suggested that they must have been broken in the effort made by the husband to lift the body on to the table, or possibly during the operation of strangling and suffocating his wife. The answer to this was that he could hardly have failed to see them if he was a murderer engaged in placing the body so as to simulate suicide, and he certainly would have cleared them away if he had broken them himself before he went to the *kotwal* to make a false report. The accused was quite candid about them. He said that the deceased usually wore them, but that he could not say whether they were on her wrists when she went to bed the previous night, and he was quite certain that he had never seen them broken on the floor. This led to the suggestion that they had been broken and left there by the police when they searched the premises in order to afford some foundation for the explanation put forward by the prosecution which, if it was accepted, might be regarded as corroboration of the confession.

But the confession was not one which in the eyes of the law

required corroboration. Of course if any doubt were created on the face of it as to its truth, it would be satisfactory for the court to have some independent piece of evidence supporting its general tenour and tending to inspire confidence in it. But it was not one of those confessions which implicated anyone else, or on the strength of which anyone else could have been implicated in a charge. It concerned and implicated only the accused himself. On the other hand it was not one of those cases in which the confession, if untrue in any of its details, was yet likely to be true in substance. A man confessing to a crime in which others have taken part will often insert untrue details in order to minimise his own share and to emphasise the share of others; or he may deliberately in order to work off old grudges, or in order to placate the police, falsely introduce the names of persons who were not there. And therefore it may justly be said about it that unless the court was satisfied of its truth in its entirety it ought not to accept it as true in any degree at all. This is not suggested as a principle of law, nor as a rule of universal application, but as a sound working principle of plain common sense. If the man were really making a true confession of a simple crime of which he alone could have been guilty, there would be no inducement to him to embellish or qualify the actual facts or to introduce statements based solely on imagination which could be of no service to him. There would be no adequate motive for inventing anything. Or to put it in another way if you are going to act in convicting a man of a crime on the sole evidence of his carefully considered statement, you ought to be satisfied that the statement is absolutely true. It is difficult to find any justification for rejecting part of it as untrue, and at the same time in spite of such rejection accepting another part of it as true. But all the questions arising from the discovery of the broken bangles were purely speculative and no inference could safely be drawn from it one way or the other.

The answer made by the defence to the second point relied upon, namely, that the accused had taken possession of his wife's jewelry—a point which went very hardly against the well-to-do Chinaman who was hanged in December 1928 for having murdered his wife in the Lake country—may be dealt with later on, when the substantial defence of Chandra Das is examined.

The superficial nature of the *post-mortem* and report has already been mentioned. There was nothing in the whole of the medical

evidence which would enable one to decide with confidence whether the cause of death was hanging, strangulation, suffocation, or a combination of these causes. Nor was there anything inconsistent with hanging. It is often a difficult question to decide, even when all the data have been accurately recorded. Unfortunately the evidence was silent, because the report was silent, upon several points with which it ought to have dealt if it had been thoroughly made, and which became of the greatest importance in the light of the controversy which was raised at the trial. It must be conceded that the doctor who made the examination, and who subsequently gave evidence at the trial, had been told that the husband had confessed to having suffocated the deceased, and that neither the possibility of suicide or hanging crossed his mind. He was therefore unable in his evidence to add very much to what he had said in his report. All that he could do was to answer abstract questions as an expert about the usual symptoms which are seen in either case. These symptoms it will now be proper to discuss.

The presumption is of course greatly in favour of suicide in a clear case of hanging. One of the first symptoms to be examined should be the mark on the neck. If this is clearly defined it will in the case of suffocation usually be transverse in direction, low down on the neck and completely encircling it, whereas in the case of hanging it will be higher up and oblique in direction. When the victim is suffocated by pressure of the hands on the throat, marks of the fingers will almost certainly be left on the skin. There was nothing of that sort in this case. A common method of suffocation by Indian villagers is to insert a *lathi*, or thick stick, in the cloth bound round the neck and to twist the cloth tighter and tighter, using the stick as a lever. This produces a central bruise or other similar injury. The use of a soft ligature would not leave a mark.

The position of the body in relation to the head is important. In hanging the head is bent in the direction in which the combined action of gravity and suspension would carry it and is stiffened in that position. If the head is found hanging over in that position, it shows that the hanging took place before *rigor mortis* set in. No special observation had been made on this matter, as the body had been taken down at once by the *darogha's* orders and he had made no notes about it. But the doctor had noticed that some saliva had run from the mouth and that both



the eyes and the tongue were protruding, the latter having been slightly bitten between the teeth. Both these appearances are common indications in death by hanging, and the running of the saliva is said to be not likely to be present in strangulation. In a case of hanging it is usual to find the hands firmly clenched, and one would have expected it in this case if the woman had really hanged herself, but nothing was noted about this one way or the other.

Suffocation has been described in Taylor, the standard work on medical jurisprudence, as that condition in which air is prevented from entering the lungs, not by constriction of the windpipe, but by some mechanical cause operating externally by pressure on the chest, or by blocking the mouth and nostrils; or internally, by closing the throat, windpipe, and air passages. In hanging, asphyxia takes place in consequence of the suspension of the body. In strangulation, asphyxia may be induced not only by the constriction produced by the ligature, but by the application of pressure on the windpipe. It is also said that the indications are so variable and appearances so resemble death by disease that a well-informed medical man cannot always detect death by suffocation simply by an examination of the body without any knowledge of collateral circumstances. If there were any truth in the confession which Chandra Das made, death must have been caused either by strangulation or by suffocation, or by a combination of the two; and it would presumably have been difficult in any case to say which. But if the case of the prosecution were true there should have been no appearances of death by hanging. And one could only say upon a review of the whole medical and expert testimony that the prosecution failed to establish either the affirmative of the one alternative or the negative of the other.

The first fact relied upon by the defence, and conclusively established, was that the deceased woman was illiterate. Not only had she always made her thumb-mark when she had to sign anything, but she was shown by the evidence of her family and of people who knew her, to be unable to read or write. No letters of the kind mentioned by the husband in his confession were found or could be proved to have existed, and the accused stated that the story which he had told of his wife's intrigue and clandestine correspondence was pure invention.

The next fact was that the deceased had been medically treated for a long while back for hysteria, and that she had twice tried

to commit suicide. On one occasion when she had been in weak health, and was excitable, she made a quite determined effort, according to those who helped to save her, to put an end to herself by drowning when she was bathing in the sacred river for the good of her soul. On another occasion she had taken poison and was taken ill. The fact that she had taken it voluntarily depended on the statement of her husband, but he had called in a doctor to attend to her and had made the same statement to him at the time. She had suffered from a form of religious hysteria, and had, according to the evidence of the members of both families, developed the remarkable habit of continually washing herself, and not merely washing, but sousing and swilling herself, with water at all hours of the day. She had frequently refused food, and had at times been reduced to a state of considerable weakness. Her health and general conduct had been a source of great anxiety to her husband and to his father. Three doctors in all were called in, belonging, no doubt, to the same community as the husband, and not men of high standing in their profession, who said that they had treated her on different occasions and found her suffering from an aggravated form of hysteria, which was not unlikely, in their view, to result in suicidal tendencies. One of her peculiarities when she got excited, according to the accused, was to throw away portions of the small collection of jewelry which she possessed, and this had led him to take it from her and to lock it up in order to prevent her from wearing anything but a few glass bangles on each arm and some other ornaments of trivial value.

Another fact relied upon rather strongly by the defence was a singular one. It appeared from the medical evidence that the big toe of the left foot of the deceased had been slit with some sharp instrument, and that the wound was probably *post mortem*. No one could have inflicted this except the accused, and he admitted that he had done it. The prosecution seemed to be unable to make anything of it. The accused, however, stated that when he first found his wife hanging, he had a latent hope that her life might not be extinct. He had contemplated trying to take the body down, but did not know how to set about it, and feared that if he changed the position he might be suspected of having caused or contributed to her death. It had not been long before he realised that she was dead. But in order to make sure he fetched a knife and cut her toe, which was the nearest and simplest thing to test,

to see if the wound drew blood. He had heard of such tests being made, and it was recognised at the hearing that it was a test not infrequently practised. When no blood flowed, he knew that the case was hopeless. He added that he had intended to report this to the police when he went to the *kotwal*, and would have done so if he had not been persuaded to alter his entire story. It was contended by the defence, with some show of reason, that as this act must have been done by the accused, it was a strong argument against the credibility of the confession, for if he had really strangled and suffocated his wife and knelt upon her chest until, to use his own graphic language, 'the life had been pressed out of her', the cutting of the toe to see if life was extinct was entirely superfluous. It was an act which might be done by anyone who hoped that it was not yet too late to save the life; it could hardly have been done by a man who wanted to take the life away.

The assessors who sat with the judge at Sessions were of opinion that the accused man was not guilty. This is not a point to which much weight can be attached, as the case was of a kind in which they were not unlikely to take that view. But the Sessions Judge convicted, and sentenced Chandra Das to death. He believed the confession was true. He was unable to accept the story of the *muharrir's* intervention. He thought that, even if the wife was illiterate, she might easily have received and sent letters through a female friend; though as to this, it must be observed that the deceased would be unlikely to keep them in her own possession when she could not read them and the husband might find them. He was inclined to think that the family and medical evidence for the defence was exaggerated in the interests of the accused, but that even if the wife had had suicidal tendencies and had suffered from hysteria, this was not inconsistent with her husband desiring to take her life, and it might have been his dominant motive. This verdict was reversed on appeal by the High Court, who took the view that the confession was definitely shown to be untrue and that the accused's explanation of it must be taken to be a true one. The appellate court considered the advisability of asking for further medical evidence, but decided eventually that in the absence of certain material facts, no expert could do more than give theoretical evidence, and that no additional evidence as to the appearance of the corpse was obtainable.

Although men condemned to death by a single judge in India

are not infrequently acquitted by a court of two judges on appeal, the case of Chandra Das presents a striking example of a trial for murder, in which the accused, mainly on his own confession, was found guilty in a reasoned judgment by a single judge, and in which the appellate court, not treating the death of the deceased as a mystery, nor giving the accused the mere benefit of a doubt, were of opinion that the circumstances established the man's innocence. The case is a strong argument for allowing an accused person in India to give evidence on his own behalf—a much-needed reform. It is also a peculiarly favourable one for enabling the reader upon a review of all the facts which lie in a small compass, and are for the most part indisputable, to decide for himself which view he would have taken, 'Guilty', or 'Not Guilty'.

## XII

### THE MURDER OF THE MURDERER

THE end of habitual and desperate criminals, like Charles Peace and Neil Cream, has often been sudden and dramatic. But few desperadoes have come to a more sudden and unexpected end than Hari Singh, a determined and successful *daku*, or dacoit, who for years had led armed gangs by night against defenceless villagers; plundered and murdered *bantias*; defiled their wives and daughters; spread terror far and wide; and defied all efforts to effect his capture. Wealthy merchants and money-lenders, counting over their hoards, and preparing to hide them underground, which they prefer to the safest bank, shuddered as they heard of his exploits; young women started in their sleep and prepared themselves for the worst when it was known that he was in the neighbourhood; refractory children were silenced by invoking his name. Ready at any moment to die a violent death, he died, as he of all men must least have expected to die, at home, in the midst of his friends, whilst enjoying the fruits of his labour. The circumstances of his sudden destruction will always be something of a mystery, though the actual cause of his death was clearly established, and one of his confederates paid the penalty.

No one has written a history of dacoity. It would be a monotonous story, but the various stages of its development are interesting. It has taken the place of *thagi*, which was stamped out by the British Government more than two generations ago. This was one of the instances in which the work of the police in India proved highly successful, and the admirable and courageous services rendered to the public by the modern police force, in keeping the depredations of dacoits in check, are equally deserving of credit. It is interesting to read what was written about the *thags*—pronounced *thugs*, the Urdu *alif* being, in this case, short—by Mr. W. Crooke, of the Bengal Civil Service, in his 'North-Western Provinces of India', in 1897: 'Though the

peculiar form of strangling practised by the *thags* prevailed from the earliest times, and was known to our officers soon after we occupied the country, it did not attract much general attention until the revelations of General Sleeman were published about 1830, when it became apparent that this brotherhood of crime had its agents all over India. Traders and pilgrims, dancing girls, and soldiers returning from leave, were all victims of these fiends in human shape. Many of these ghastly tragedies, played at lonely halting-places, or even in frequented camps, where the tent of the European officer was pitched sometimes over the very grave of the victim, will never be told on this earth. But enough was known to put the detectives, aided by the statements of informers' (it may be noted that this source of information has been, for over one hundred years, the sheet-anchor of the British authorities in India in their efforts to preserve order, punish crime, and stamp out sedition) 'on the track of the strangler. In the ten years between 1826 and 1835, 1562 persons were tried in India for this crime, of whom 1404 were convicted and sent to the gallows, or transported for life. By 1860, after a steady campaign prosecuted for thirty years, these gangs had been completely destroyed, and *thagi*, in its original form, had been stamped out. But as often happens, one form of crime disappears only to be succeeded by another. The poisoner followed on the tracks of the strangler. The increase of travelling, consequent on the extension of the railways in the latter half of the nineteenth century, gave a temporary stimulus to this class of crime. But by a patient system of investigation the chief offenders were hunted down, and this crime is now comparatively infrequent.' The pride of first place must now be conceded to dacoity, or gang robbery. Its first essential to success is an efficient leader, and its modern growth has provided plenty of them. It is aided by the proximity of native states, whence recruits can be obtained, and where the gang can take refuge when pursuit by the police becomes serious. In these states a different system of police prevails—not so 'intensive', to use a modern term—and questions of jurisdiction, so dear to the lawyer in India, create serious obstacles in the way of bringing absconding dacoits to justice. In the four years ending with 1893, 736 of these gang robberies occurred. 'The English tramp', writes Mr. Crooke, 'as he enjoys the comforts of the doss-house, or casual ward, might, if he only knew the fate of his Eastern brethren, thank Heaven that he does

not enjoy the blessings of a paternal government.' But the number of dacoities, certainly in northern India, must have increased very much during the last decade, in spite of the most efficient work of the police. The end of the war gave dacoity a great vogue. Soldiers, members of labour parties, and, in small numbers, ex-criminals, returning to their homes, had tasted the sweets of a new life of adventure, and were unwilling to settle down again to the dull pursuits of agriculture. The sword had taken the place of the plough in their thoughts and affections. And in spite of the most meticulous precautions in the army, some of them, with an eye to future business operations, had managed to smuggle home fire-arms. One ex-soldier, exhibiting a bomb to an admiring circle of fellow-passengers in a railway compartment, let the thing off, and blew himself, and most of his companions, to pieces. A similar fate befell the family of an ex-soldier, on his return to his village. Military weapons are occasionally recovered from dacoits, though not in large numbers. But this question of fire-arms draws attention to a very difficult problem with which the authorities, and the villagers, are alike confronted. The restrictions against the carrying of fire-arms in India are necessarily severe. No one may carry one of any kind, even a sporting rifle, or the oldest of old-fashioned blunderbusses, weird specimens of which are occasionally exhibits in a criminal case, without a licence from the District Magistrate. The possession of fire-arms of all kinds is controlled by statute, and statutory rules, and the penalties for breaches of these provisions are severe and strictly enforced. An Indian must be either an official, or a man of unquestionable position and of unimpeachable character, to obtain a licence. The privilege is one which is highly appreciated by those who enjoy it, and its loss is keenly felt, not only because it affects the *izzat* of the man who has once held a licence, but also because many Indians take a keen delight in *shikar*, and are generally excellent shots when their nerve is steady. But the result of all this is that the average villager is unarmed. This is perhaps an under-statement. Unless there happens to be a resident *zemindar* with a licence, or an officer of Government in the village, in which case a gang of dacoits will probably give it a wide berth, there are no fire-arms of any sort in an Indian village. The unfortunate villagers have to meet night attacks by gangs of twenty or thirty men, armed with axes, sword-sticks, and other deadly weapons, amongst whom two or

three of the leaders are certain to be carrying guns, with no better weapons of defence than brickbats. It will surprise no one to hear that in many cases it is quite sufficient for the gang, as they reach the outskirts of the village, to fire a couple of shots in the air. The villagers know what this means, and their only possible plan of campaign is to hide and wait till the dacoits get to work inside a house, and then to try and surround them and pick them off with bricks and stones. A gang of dacoits almost invariably announces its arrival in this way. They do not want to murder unnecessarily, and only do so when the villagers come to close quarters with them. The object of killing is to prevent the capture of any member of the gang, or to get rid of a villager who might be able subsequently to identify the culprits. It is a remarkable fact that dacoits, as a whole, have not yet discovered a perfectly simple method of avoiding identification. It has been said that a small fortune awaits someone who will be able to supply them with the article they require, when they have discovered it. But there is no question that villagers feel very keenly their comparative helplessness in resisting these midnight marauders, and it seems impossible to suggest any remedy for it. The feeling which undoubtedly exists on this subject manifests itself in a way which is significant. Readers are aware that in a large proportion of criminal cases tried in India there is no jury, but that assessors are appointed to sit with the Judge, as judges of fact, and to express their opinions, at the end of the case, on the guilt or innocence of the prisoner. Sometimes the assessors, if carefully handled by the Judge, give quite intelligent and useful opinions, but they show the same tendency as juries to go rather far in the direction of giving the accused the benefit of the doubt. They are slow to convict in cases of circumstantial evidence; and in difficult cases, or in those in which feeling may run high, they are apt to record their opinions on strictly caste lines. But in cases in which members of a dacoity gang are on their trial they show quite as strong a tendency to convict everybody as in other cases to acquit. It is difficult to get them to show any discrimination, although there are many cases in which, out of a large number of accused, the evidence against some is weak. They seem to regard every man standing in the dock as necessarily a dacoit. The mere fact that he is there is sufficient for them, whatever the evidence against him may be. If their opinion possessed any legal force, every man charged at Sessions with dacoity would



be convicted as a matter of course. This is due to their appreciation of the widespread nature of the crime, to the terror in which dacoits are held by the general body of villagers, and to the general desire to get rid of them.

It is time after this long digression to return to Hari Singh. He lived with his mistress, Musammat Nanhi. It is curious that these men almost invariably have a mistress, probably because such women have more individuality, experience of life, and more enterprise than a timid wife who spends her life behind the *purdah* out of sight of men. These women are useful to men like Hari Singh, because they provide a shelter and a common meeting-place or clearing-house for individual members of the leader's gang, and a store-house for the jewelry accumulated from successful raids, into which stolen cash is also turned. A bold woman can always be counted upon to claim the jewelry as her own, and to find goldsmiths who will identify it as having been made or sold by them.

About eight o'clock one evening in the cold weather, the whole village was aroused and alarmed by the noise of fire-arms, mingled with shouts and cries, till one shot rang out clearly above the rest. For the moment, although it was known that Hari Singh and some of his companions were sleeping at their houses that night, many of the timid villagers thought that their hour had come, and set about hiding their possessions as hastily as they could, and preparing their feeble resistance, while others rushed out into the comparative safety of the jungle. A few of the bolder spirits found their way to the spot, which was close to Hari Singh's house, and there they discovered his dead body lying in the centre of a small knot of villagers. The head was shattered and it was clear that he had been shot dead instantaneously at close quarters. He was unarmed. One pistol only was to be seen which could account for the occurrence, and it was in the hand of Harchand Singh, one of his old associates, who with two others, named Narayan Singh and Bhaggu Singh, formed a prominent feature of the gathering. A larger crowd soon began to collect as the sense of personal danger was removed. Much chattering and excited talk went on, and ultimately the village *chaukidar* left for the *thana* to make the usual report. He had only five miles to go, and he arrived at a quarter-past eleven, so that he must have delayed his departure until about half-past nine. He reported that Narayan Singh, Bhaggu Singh, and Harchand Singh and

other people of the village had surrounded Hari Singh, *badmash*, in order to arrest him; that Hari Singh had fired a revolver; and that in order to save their own lives and to effect his capture they had shot him. There were some obvious *lacunae* and weak places in this summary. The persons named bore a reputation with the police (who keep 'history sheets' of notorious characters) which made it unlikely that they would attempt to bring Hari Singh to justice, particularly at the risk of their own lives. Indian villagers do not wander about in the ordinary course of their daily lives armed with revolvers, even though they may be desperate dacoits, and it is not an easy thing for unarmed men to overcome a reckless opponent armed with a revolver which he is freely using; nor would it be necessary, if they did so, to shoot him. In fact, as subsequently appeared, Hari Singh was on this occasion unarmed. However, from the moment of the *chaukidar's* departure to make his report, the persons interested stood committed to a story of attempted capture and of justifiable homicide in self-defence. This was awkward for Harchand Singh. The necessary amount of half-truth required to support the village version was forthcoming, and the way of the investigation officer was made fairly smooth. But the details of the attack by Hari Singh, and the reasons for it, left much to be desired; nor were the circumstances under which he had allowed himself to be disarmed by his defenceless followers at all convincing. It soon became apparent that however laudable the services rendered to the public, whether out of patriotic motives or in pursuance of some private quarrel, by the author of Hari Singh's death, the notorious dacoit had been murdered. One Musammat Jamna had a strange story to tell. The three men who were beginning to come under suspicion were all members of her family. She lived next door to Hari Singh and his mistress. She said that she had heard the noise of many voices and of a great disturbance in the house next door, and had thought the police had come to arrest Hari Singh. She had heard a shot, and immediately afterwards Hari Singh, having escaped on to the roof of his house, had climbed along to hers and jumped down inside. He had accused her of having harboured his mistress, who was trying to put him away, and demanded to be told where she was. The Musammat had denied this accusation, but had been threatened with her life unless Musammat Nanhi was produced. All this time Hari Singh had had a pistol in his hand. The Musammat said she had

screamed for help, and that thereupon the three men had come to her house to rescue her. Hari Singh had asked them if they wished to arrest him, and they had answered 'Yes'. Thereupon he had fired three shots at point-blank range, which missed everybody, and then Harchand Singh had felled him with a *lathi* and wrested his pistol from him. Further than this she was unable to say anything, as fear had overcome her and she had become unconscious. Her account of the sequel would have been interesting. But she was not going to put the rope round the necks of three male members of her family, and she had not sufficiently mastered the details of a story of self-defence to trust herself to describe the closing scenes.

Alleged eye-witnesses to the final scene were not lacking, but it became idle to attempt to construct a connected narrative out of the collection of dramatic incidents which they purported to describe. If imaginative genius or powers of graphic description had been qualifications for the new electoral franchise, they would have been entitled to be put on the roll as a matter of course. One sanguine villager exhibited an obviously *ex post facto* wound, which he declared had been inflicted upon him by the deceased. But his self-sacrificing efforts were wasted, for he was not even put forward as a witness at the trial. All the witnesses agreed that Hari Singh had been despatched by Harchand Singh, but they disagreed hopelessly as to the manner in which the *coup de grâce* had been administered and as to the incidents which preceded it.

As the net closed round him it became necessary for Harchand Singh to evolve some definite line of defence. This story, which is otherwise commonplace, is illuminating mainly on account of the varying stages through which the defence passed in an effort to hit upon a line which would be accepted by the *sirkar*—or in other words, the Judge, who to them is much the same thing—and at the same time to save the accused from the gallows. There are cases, and this was one, in which it becomes an almost fascinating task for those who sit in the Court of Appeal and get a 'bird's-eye view' of the whole proceedings, from the earliest stage to the latest, in a printed book, to trace the growth of a defence which has changed its course on its way from court to court. It sometimes happens that what seems in the end to be the real truth, and the only defence, makes its appearance for the first time in the petition submitted by the accused from jail to the Court of Appeal, after he has been left to his own devices

and realises that everything else has failed. There are numberless petitions of appeal which are in common form, written out by professional petition-writers, and which merely allege that the appellant is innocent and that the lower court failed to do justice in the case. But there are others of the kind mentioned which obviously come straight from the mouth of the appellant, and which, for the first time, put forward a plausible explanation of the case against him.

The original suggestion of the attempted capture of Hari Singh was abandoned by Harchand. It was an attempt to set up self-defence. It had served the police well by affording definite evidence identifying the actual perpetrator of the deed. But as a reasonable theory to justify homicide it failed to hold water. The Sub-Inspector had no option but to arrest Harchand on the charge of murder. This forced the hand of the accused, and a fresh explanation was produced. Witnesses who had hitherto remained silent came forward with a more probable story, which had this much verisimilitude about it that the fight had really begun in a quarrel over money. This was a defence of a gambling quarrel. Harchand, Narayan Singh, Bhaggu Singh, and others had been gathered together in Hari Singh's house, playing a game. Hari Singh was not in the best of tempers. He had discovered an intrigue between Musammat Nanhi, his mistress, and his own brother, who had a child-wife, and there had been a serious row. All the party had been drinking and most of them were intoxicated. Disputes arose over the losses at the game, and eventually the party had come to blows; and as Hari Singh began to threaten them with his revolver, someone had felled him with a *lathi*, whereupon he was disarmed and shot. This new version probably contained a certain amount of half-truth, but it did not carry conviction. At the preliminary hearing before the magistrate, Harchand improved upon it, and stated that the quarrel was a general one over money—gambling debts and the proceeds of dacoities. The gambling theory had weakened, and the more likely story of disputes about dacoity profits made its first appearance. Harchand was committed to trial, and there the gambling story was abandoned and the defence tightened on dacoity. The real truth, it was said, was that they were all interested in the proceeds of certain dacoities, and the shares which some of them had received were less than they were entitled to. Hari Singh was a bully and a tyrant, and not only declined to share the booty

with them and to pay his just debts, but had threatened them all with death. Matters had thus reached a crisis, and Hari Singh had been told that they would stand no more nonsense, but that he must disgorge. He had then got out of hand and run riot with his revolver, and, being outnumbered, was overpowered before he could do any serious injury, and accidentally shot. Fear of the consequences to themselves had deterred them, up to that moment, from telling the real truth.

This final line of defence was probably not far from being a correct account of what really happened. But it showed that Hari Singh was not the assailant. Tired of doing his dirty work for insufficient reward, his companions in crime had determined to make an end of him, and Harchand was rightly convicted on the capital charge, while the other two were probably fortunate to have escaped. In the general confusion on the night, the woman who shared Hari Singh's scattered days of domestic repose, and who doubtless disposed of much of his plunder, disappeared and was not seen again until the case was over. Hari Singh had provided himself with secret means of escape in case of emergency, and it is not unlikely that Musammat Nanhi, with a woman's ready wit, had availed herself of them when she saw that the game was up. The sentence upon Harchand, in consideration of the advantage the public derived from the murder which he committed, was commuted to a term of transportation. It is said that he was subsequently transported to France as a member of a labour party during the War. If so, the fact confirms the suggestion made by the police *muharrir* to Chandra Das, related in the preceding chapter, and may have enabled him, on his return after the War, to take Hari Singh's place as the leader of new gangs of dacoits.

## XIII

### A POLICE PANTOMIME

THE story now to be unfolded reads more like a Gilbertian extravaganza in comic opera than sober history. To the average English reader, unfamiliar with the mental processes of the semi-educated Indian in subordinate but responsible official posts, and unacquainted with the temptations and opportunities offered to police officers in large up-country districts in India, the bare statement of the crime which was committed must seem, at first sight, absolutely incredible. To those who have either worked amongst the Indian police or have had to deal with their investigations, the actual conception of this crime and the attempt to put it into operation will not seem so far removed from the bounds of probability. But to one and all, the elaboration with which it was constructed, the reckless courage and effrontery with which it was carried into execution, its touches alike of tragedy and humour—of which the end of Abdul Hakim Khan and the injury to Murli are, respectively, outstanding examples—and its astounding measure of partial success, must be unequalled by anything in their experience. No police force in any country in the world, however efficient, has been free from crime: in every force, from time to time, men are found, from the highest to the lowest, ready to sell their souls and to use their positions and their opportunities amongst the criminal classes for their own profit; but to the members of the Indian police force who were convicted and punished in this case belongs the distinction, for which probably no parallel can be found anywhere in the whole history of crime, of having invented a crime, with a large number of fictitious criminals, including men who were prepared to confess to things which had never happened and to become approvers in order to create the necessary evidence, with the sole purpose of obtaining neither profit nor even promotion, but merely *izzat*, or a small measure of honour and personal distinction. Even this, if it was

not altogether a vain thing, could only have been won by the chief conspirator. As to the other ten (there were thirteen in all, of whom one threw in his hand, and two—most astonishing of all—were not even policemen), not one of them, so far as one can see, had anything of any kind to gain. Why they joined and what they hoped to get from it all, will be better considered hereafter, when the facts of this strange, eventful history have been examined.

The case was tried at Bahraich in 1909 by Mr. T. K. Johnston, I.C.S., now retired, who had a fine record of judicial work in the United Provinces, and who was then Additional Sessions Judge of Gonda. This historical summary is compiled from the printed record of the evidence, which has been preserved by him, with considerable assistance from his lucid and interesting judgment. The trial presented no outstanding features of forensic interest. Except for some small points of the admissibility of evidence, the only legal question which arose related to the criminal responsibility of the subordinate police constables who were included among the accused, and who, though acting under the orders of superior authority, undoubtedly took an active, and even an essential, part in a lawless conspiracy. This question of their criminal responsibility gave one of the appellate courts some trouble and created a difference of judicial opinion. But it was not contested as a question of fact at the trial, when all the defendants made common cause and persisted in the contention, which was maintained to the bitter end with an effrontery hardly surpassed in the original conception of the conspiracy, that the case which they were alleged to have concocted was a true one. This line of defence was a hopeless one from the first, but was characteristic of the attitude consistently adopted by accused persons and their legal advisers in India, of never admitting anything and of fighting every point with untiring determination. In pursuance of this policy, the accused called no less than fifty-six witnesses, whose evidence, though it broke down badly, was submitted to a patient and careful review in the judgment. But once the 'cat was out of the bag', there was small chance of escape for the accused. The victims of the organised police pressure who had been caught in the net were free to tell their astounding story without fear or favour; the flood-gates of truth were flung open, and the accused were overwhelmed. The case became one of those which are known, in legal phraseology, as 'undefended';

in other words, without any real defence, though the defendants put up a stern resistance for weeks with their backs against the wall. If they had faced the realities and frankly admitted their guilt, they would have saved themselves and their families enormous expense, and would have mitigated the punishment which they could scarcely have hoped to avoid. But accused persons, at any rate in northern India, are hardly ever known to take this reasonable course, and, when caught, invariably prefer the expensive and usually hopeless gamble of a desperate fight against odds. The effect of this policy in this case, as in many criminal cases tried in India, was the production of a positively appalling volume of evidence. Seventy-nine witnesses were called by the prosecution, in addition to a mass of documentary evidence, and the fifty-six, already mentioned, called by the defence. The trial lasted from the 26th July to the 28th September. The record of the evidence covers, roughly, 272 printed foolscap pages and the printed judgment occupies 37.

Those who have read the Introduction to this book, and the prefatory passages to the story of 'The Murder of the Murderer' told in Chapter XII., have already formed some idea of the crime of dacoity and of its investigation in northern India. An interesting article on the detection of burglary (the nearest English equivalent of dacoity) by Mr. Marsh Smith, of the Indian Police, appeared in the number of *The Police Journal* for January, 1929, and is well worth perusal in this connection. But to assist readers in appreciating the conduct of the police in this case, some observations on the particular form of dacoity known as 'gang cases' will be found both interesting and helpful.

Technically, a dacoity is a robbery committed conjointly by five or more persons. In fact, as we have already seen, it is almost invariably committed by large gangs, varying in number between fifteen and thirty or more, armed with guns and other fire-arms and weapons, the majority of which are not merely obsolete but prehistoric. Many gangs are not content with raiding the dwelling-house of a reputedly wealthy *bunia*, or merchant, in a single village, but go from place to place seeking whom they may devour. Two well-known sections of the Indian Penal Code are purely preventive. Section 400 makes it an offence, punishable with transportation for life, to belong to a gang of persons associated for the purpose of habitually committing dacoity. Section 402 makes it an offence, punishable with a long term of imprison-



ment, to assemble for the purpose of committing dacoity. The task of tracking down gangs is one of the most difficult and dangerous of those committed to the police. It often means a running fight with armed men, and the risk of being shot from an ambuscade. From time to time, the number and strength of gangs become so great, and their operations involving murder and loot become so widespread, that special police forces are employed to hunt them down. 'Gang cases,' properly so-called, do not happen in very large numbers, but, considering their difficulty and complexity, they are frequent enough, and entail an enormous amount of work, both on the part of the police and on the part of the courts. The trial of a gang case has been known to last for as long as six months, with as many as sixty or seventy accused, and witnesses running into hundreds. The work of investigation and construction is long and laborious. It often has its beginning in the arrest of men who have been caught in some isolated dacoity, and who, in the hope of buying a pardon, offer to give the police detailed information of the various operations of their associates. In gang cases, evidence may be given against individuals of association in the commission of dacoities for which they might have been tried but were not, for lack of sufficient evidence; and evidence may also be given of association in the commission of dacoities for participation in which they have been actually tried and acquitted. For the offence charged is association for the purpose of habitual commission, and not the actual commission of any particular dacoity. In such cases one may have as many as five or six approvers, each of whom may have a story to tell of habitual association against any number of different individuals, giving the details of quite different dacoities in which they were engaged. For, just as the greater includes the less, a gang may comprise a far larger number of men than happen to be engaged in any particular dacoity; certain men drop out of some and reappear in others; a few men may leave a gang after committing a few dacoities, breaking off to join other gangs or to seek other employment, while others will join the gang during the later stages of its operations. Each village selected for attack will generally be found contributing at least one or two local adherents, who act as guides to the residences most profitable for raiding purposes. As there is also much risk, or even certainty, so oddly is the Indian mind constituted and so keen the desire to avenge one's grievances by making false

charges, that an approver will try to bring into the net, by naming him, anyone against whom he has a private grudge, the court has to exercise the greatest possible care to see that the evidence of the approver against each person whom he names is adequately corroborated by reliable independent evidence against each accused. Such evidence is often procured by a series of identification parades, at which villagers who fought with the dacoits, or had other opportunities of seeing them during the raid on their own village, seek to identify those whom they think they can recognise; and the lists of those whom they identify are compared with the names of those against whom the approver has testified. Inasmuch as some villagers are enthusiastic; some are tampered with by the police; and others are reckless, or make mistakes for other reasons, a large number of erroneous identifications are made. They are called 'wrong identifications'; but in sooth they may be not wrong, because among the other prisoners awaiting trial, or the casual wayfarers captured and pressed into the service for an identification parade, there may be some 'hidden Milton' who has dacoited and eluded suspicion. But just as the approver's evidence has to be sorted out according to the amount of reliable corroboration available against each man whom he names, so the villagers and other identifiers have to be sorted out according to their unreliability as shown by the number of incorrect identifications they have made. It will thus be seen that the piecing together of the little bits of evidence applicable to each one of a force of fifty or sixty accused, and the rejection of untrustworthy items, is a work of enormous magnitude and of minute detail, like the piecing together of a large area of mosaic work. Needless to say, the special duty of 'rounding up' a gang is entrusted to experienced officers of high position; and a Circle Inspector, who may be likened to a Chief Constable in England, and who has a large district to administer, with several *thanas*, or police stations, and Sub-Inspectors under him, is entitled to great credit, and is not unlikely to be posted to good places, even if no actual promotion in grade is possible for him, if he has the good fortune to capture a gang, or to build up materials for the prosecution of a gang case. If he does not succeed in getting hold of a gang case properly so-called, he probably regards the capture of a gang preparing to commit a definite dacoity, and a prosecution under Section 402, as the next best thing. When an Inspector finds materials for the inception of a gang case, he opens what is called a

'special diary', in addition to the ordinary diary which has to be kept of all the transactions carried out under the supervision of an Inspector in the district or *thana* to which he is assigned.

Jagannath Singh was a Circle Inspector with an excellent record, although, about this time, his Superintendent, Mr. Williamson, had received some complaints about police transactions in his circle. In 1907 and 1908 there had been a number of dacoities in the Bahraich district, and much difficulty had been experienced in obtaining evidence sufficient to convict the perpetrators. In September, 1908, Jagannath Singh had contemplated instituting a case under Section 400 against a gang in the area of the Naupara Circle, and the entries in his special diary during the latter end of September and the beginning of October showed that he was studying the records of certain dacoity cases in the district, and interviewing the spies whom he was employing. On the 26th September a dacoity at Usargaon was reported. On the 27th September another was reported at Sheorajpur. Various entries followed showing the result of inquiries, and that certain named persons, who were under suspicion, were absent from their houses on those occasions. Various searches were instituted, and property said to have been looted was discovered in the possession of some of them. Certain of the men who lay under suspicion were detained in that curious half-way house between liberty and formal custody described in a former chapter, and known in India as *ijazat haziri*, or 'permission to be present', in order to see whether they were able to give information or to explain the suspicions entertained against them. The diaries contained entries by various members of the force acting under Jagannath Singh's orders, and the arrests of certain dacoits were formally recorded. It would be superfluous to enumerate the names and descriptions of those in custody.

On the 11th October, at 4 P.M., according to the special report signed by Jagannath Singh and Abdul Hakim Khan, another Circle Inspector, a spy came to Jagannath Singh with the news that a number of dacoits had assembled at the house of one Salig. Khatik, at Piprahwa, and intended to commit a dacoity that night in Gokulpur. On receipt of this information the two Circle Inspectors, together with Wazir Ali Khan and Jan Muhammad, Sub-Inspectors, and Wajid Husain, Ghaus Ali, Lachhman, Muhammad Hashim, Mata Din, and Ram Kuber, constables, and twelve *chaukidars*, proceeded by rail to Rupaidiha, the ter-

minus near the Nepal frontier. Here they halted, awaiting further information. About 11 P.M. they heard that the dacoits were assembled in the *kuti*, or hut, near Gokulpur. Dividing their force of constables and *chaukidars* into two portions, the Inspectors approached the *kuti* from two sides, reaching it about midnight. As they drew near, guns were fired and they saw some fifteen or twenty men outside the *kuti*. Several shots were exchanged and the dacoits were hemmed in, the police threatening to shoot them dead if they tried to break through.

Meanwhile some men of the neighbouring villages, Pokhra and Gokulpur, who had heard the shots, ran towards the *kuti*, announcing their arrival with shouts. Hearing the shouts, the dacoits made a great effort and, by shooting and then using sticks at close quarters, fifteen or twenty of them broke through and escaped. The others were arrested inside the *kuti* on the arrival of the Pokhra and Gokulpur men, and two guns, a pistol, and some ammunition were found with them. During the fight, Murli, servant to Jagannath Singh, received a shot wound in the leg. Some of the Pokhra and Gokulpur men had recognised a few of the dacoits who had escaped. In all, eight men were named, in addition to the fourteen who were captured. The police took away their prisoners to Rupaidiha.

This report was written in the small hours of the morning of the 12th October. Taking the number of the gang assembled in the *kuti* at the highest estimate made of it, namely, thirty-five, and the number of the police force at twenty-two, an impartial critic would be compelled to regard the fight described in this report as one of the tamest affairs which ever occurred between two armed bands of determined foes. It is no doubt difficult to direct, as well as to describe, an affair of this kind which takes place in a confined space. But the causes which create the difficulty, both in directing and in subsequently describing the course of events, are just those most likely to lead to the infliction of a number of personal injuries, more or less serious. The police were outnumbered, but they were trained, drilled, and disciplined men and efficiently armed. They had the gang at a distinct disadvantage by coming at night, and by surrounding the confined space in which the gang were gathered before their presence could be known. Indian policemen on occasions such as these are certainly not lacking in courage. When well led and kept from panic, the average Indian, especially in the north, is a fine fighter.

His respect for authority and for the strong arm of force and his inherent fatalism largely explain his tenacity under discipline. If the gang had been armed with sound weapons of precision the fight would have been all the more desperate. If they were not, one would have expected that not one of them, except by the most extraordinary good fortune, would have succeeded in escaping. Few could have escaped in the ordinary way without receiving some injury. Yet not a single man of the whole thirty-five was even winged. More remarkable still, the whole of the body outside the *kuti* were arrested almost without a struggle; while those within, who were cornered and had to run the gauntlet of the police force in the dark, managed to get away. It is easy to be wise after the event, but it surely ought to have struck someone (it will be seen that it struck Abdul Hakim's father at once) in the early stages of the inquiry and subsequent proceedings that it was odd that only a personal servant of the Inspector should have been touched—and that in the leg, the last place one would expect the members of a desperate and lawless gang, using fire-arms to prevent arrest and to drive off an attack, to aim at, though a natural enough place for a policeman to aim at in a man running away.

Probably the case was too big when it came formally before the magistrate for him to notice points of detail, or he may have thought that, as the case had to go to trial anyhow, it was better to leave matters of possible controversy to the Sessions Judge. It would not be too much to say that under the most intelligent and wide-awake system of preliminary inquiry, either in or out of court, the arrest of an armed band at night would be an event of so obviously a criminal colour that the mind of an independent tribunal even would be unconsciously lulled into a sense of security, and would not be astute to notice small indications which subsequent events might show to have been significant. Nor would it involve a great stretch of imagination to suppose that the dramatic art of Jagannath Singh and his collaborators was unequal to the task of producing a *pakkha* fight, and that he relied on the confiding genius of the tribunals with which he was familiar, with the assistance of the appropriate sections of the Evidence Act, to fill in by presumption, implication, and legitimate inference the undoubted gaps in the facts of his story, of which in his intervals of reflection he must have been painfully conscious. He was out for big game and was making a big throw,

and was unlikely to be deterred by craven fear of pedantic criticism from the Bench. Moreover, it is due to him to remember that there are limits to the 'will to victory', and to the power of self-sacrifice, even of the personal servants of Circle Inspectors; and where were his injured men with fractured skulls and bullet-holes in their insides to be found?

Whatever the cause, the case presented no difficulties to the committing magistrate. Of the fourteen men originally taken, Shakur and Dubar had made formal confessions. Shakur was tendered a conditional pardon and was returned to police custody. Everyone knows what this means. He was wanted by the Inspector to lead him to the required corroboration, without which his confession would be ignored by the pedants. The rest, including Dubar, were sent to jail to await trial. There was a point about Dubar. This was the end of his nose. It had been slit. Whether this was a relic of former gang exploits or the result of some village or domestic argument is not known. But it was a fine asset for an identification parade. Later on, four more men were arrested. Shakur gave evidence on the lines of his confession, and in the month of November, 1908, the rest were committed for trial at Sessions. These included Dubar, whose confession was thus turned against himself. There was a fine dramatic touch about this. It is impossible to withhold one's admiration for its artistry. It was all due to his unfortunate facial disfigurement. His nose would be a strong point for the defence. How could any villager fail to recognise at an identification parade a man with a nose like that? You couldn't trust an identification of that kind for a moment! But if his nose would be a strong point for him in his own defence, it would be a still stronger point for the defence if he were called as an approver. What would happen to the corroboration by villagers who would say they saw him in the gatherings, or in the dacoities to which he swore that he belonged? There was a serious risk that his evidence would break down and be rejected altogether on account of this imperfect nose. And though it might be a strong point in his defence, by destroying the value of the identification evidence against him, that would not matter, because he had confessed and he could be convicted on his confession alone; and though he might not lead to any other conviction, he would certainly not procure in the dock, as he might do in the witness-box, the acquittal of any of the accused. Owing to the congestion of work

in the Sessions Court, there was considerable delay before the case was put up for hearing, and it had not been tried by the 31st March, when a strange thing happened.

On this date, in the evening, at his own quarters, Abdul Hakim Khan, the second of the two Circle Inspectors, shot himself. This pathetic tragedy was related at the trial by his servant Saif-ul-lah:

Abdul Hakim was my master. I used to prepare his food. He came at 11 A.M. and took his food. After lying down, he went out, and returned at 3 P.M. and told me to heat water for him to bathe. I heated water and put it down. Then he turned us out. Then the Court Inspector and Jagannath Singh came. Ghaus Ali also came up with the *thela*. My master was going home on leave, by the evening train, and the *thela* was for his luggage. Jagannath Singh and the Court Inspector did not see my master. He was in a room with the door locked. Later we heard nothing, and Wazir Ali Khan, who had to go to Naupura, told me to see what was wrong. (No one said that he had heard a gun fire, but they knew then, and must have realised that the game was up!) I climbed up on a door, and saw Abdul Hakim Khan lying dead. A gun was on the ground, and he had a wound in his chest. On the same day Jagannath had come to see him about twelve. They talked together in a room apart. As he was going, I heard my master say: 'Just listen! It is a very shameful business.'

It is necessary to give some account of this unfortunate Circle Inspector. He was a man of sterling character and completely trusted by the European Police Superintendents. Jagannath Singh knew what he was about when he brought Abdul Hakim Khan into the conspiracy. It was natural, but it was cruel. It would not occur to the Superintendent that Abdul Hakim Khan could possibly be associated in an organised hypocrisy. Mr. Williamson, then the Superintendent of Police for Agra, who was the first witness at the trial of the police officers, related how he had encouraged the promotion of the deceased Circle Inspector. Abdul Hakim Khan's father was an aristocratic Mohammedan soldier, with the rank of Risaldar Major and the honorary title of Sardar Bahadur, and was one of the Viceroy's A.D.C.'s. In him were concentrated all the finer virtues of the Indian character: high principle, courage, dignity, courtesy, and the right sort of respect for authority. His son inherited his father's character and instincts, and had been a credit to his upbringing. One can appreciate and deeply sympathise with his feelings when he reflected upon the wreck which had been made of his son's career and upon his

pathetic end. Mr. Williamson had known Abdul Hakim Khan for five years. He had nominated him for his appointment after he had been through the Training School and had served as a probationary Inspector. In February, 1909, Abdul Hakim Khan had wanted to make a statement to Mr. Williamson. He had made certain complaints to him already about the conduct of the police in the district in matters in which he had taken no personal part. As these were then the subject of official inquiry, Mr. Williamson thought that the further statement which he wished to make must have reference to these matters, and rightly discouraged him. It was one of the ironies of life that this scrupulous circumspection probably contributed to the final tragedy. If only Abdul Hakim Khan had not suffered from the natural timidity and respectful reserve of the Indian subordinate towards his English superior, and had just blurted out that it had nothing to do with what was *sub judice*, but was a fresh and urgent matter, he would have been allowed to say what was on his mind before the burden had grown too heavy for his sensitive conscience to bear. On the fateful day, the 31st March, Abdul Hakim Khan was, as we have seen, going on leave. Mr. Williamson was under orders of transfer to Agra. When Abdul Hakim Khan returned from his leave, Mr. Williamson, whom he doubtless worshipped as his benefactor and whom he trusted, would be gone and a new Superintendent would have taken his place. Abdul Hakim Khan, poor fellow, could stand it no longer. He was borne down by the secret which lay so heavily upon him, and he could not face the dark prospect of the future and the crisis which he dreaded, without his friend to help him, and he told him his story. Mr. Williamson was prevented by law from repeating it at the trial, because it was a confession; but we know what it was, because the young man had already told his father, who was able to give it in evidence. Mr. Williamson, on learning the facts, stopped his leave and ordered the temporary suspension of the other police officers. Poor Abdul Hakim Khan could not face the task of confessing to the new Superintendent, and he told Mr. Williamson that he would be pestered by the officers concerned and their friends, as everyone would know that he had been with him that day, and that the 'fat was in the fire'. He hinted at suicide, which Mr. Williamson pooh-poohed and told him to put out of his mind, advising him to go out for two days' quail-shooting, and adding: 'You have done the bravest act I ever heard of in this country, and every



officer, from the Viceroy downwards, will try to help you out of your trouble.' But it was too late. The young man replied in his own tongue, with that curious Oriental indirectness which sounds even now almost like a jest, 'Why should I not indulge in a little *shikar* in my own house?' The sequel we know!

The father said in his evidence that Abdul Hakim Khan had come home for a few days' leave in the previous October and had related how he had been engaged in a capture of seventeen dacoits, some of whom were armed, and that only the Inspector's servant had been wounded. The father had then asked how that was, and Abdul Hakim had replied that the case was quite false and had been fabricated. He continued:

I asked him how it had been fabricated. He replied; 'Jagannath Singh, Inspector, had been put on to arrest dacoits. He asked the Superintendent for me to be sent to help him. In consequence of the Superintendent's orders, I went to the bungalow where Jagannath Singh was staying. On arrival I heard that this dacoity case was being made up. I said to Jagannath Singh that I would take no part in the case, as it was quite false. Jagannath Singh said that if he *chalaned* (charged) them in the ordinary way, they would get light sentences and some would get off, and there would be no glory accruing to us. That if his scheme was carried out, they would all be heavily sentenced, and we should be honoured and rewarded. I was eventually persuaded by him and agreed, but I made him promise that I should not have to attend any court and give evidence. He agreed to this, and I have not attended any court. Jagannath Singh, on the night of my arrival at the bungalow, stripped seventeen *chaukidars* of their uniform, and, muffling their faces, gave them two guns, a pistol, some powder and shot which had been prepared, and told them to sit in a certain place near a certain village. About midnight, Jagannath Singh and I and some Sub-Inspectors, constables, and *chaukidars* arrived at that place and fired some shots, thus causing people to come up from the village. In their presence we arrested the *chaukidars* who had been sent on ahead, with their guns, pistols, and powder. We said to the villagers, "Did you hear the sound of the shots they fired at us?" They said they had, and we made them sign a paper. We then returned with the sham dacoits to the place where we were staying. There we let the sham dacoits go, and the men who had been collected three or four days before' (*i.e.* the *ijazat haziri* men) 'were handcuffed and locked up. Then there was a proposal that some one should be wounded. No one agreed to it, and Murli, Jagannath's servant, was wounded. Then a report was entered in the diary that we had heard from an informer that dacoits were to collect that day.'

And he went on to recount the story which had been entered in the report already summarised, and told his father that he had signed the diary. The father continued:

I told him that he had done a very wrong thing, and that I had not sent him to do such work, but to do good work. He said, 'This is a fault in your eyes, and for this reason I have told you. I ask your forgiveness. It shall not occur again.'

The father was cross-examined at great length, but nothing appeared to qualify or shake his story. He said that he had not repeated what his son had told him until after his death, and added the *naïve* observation: 'I did not consider it my duty to sacrifice my son in order to save the innocent persons who were under trial.' He also added that he had met his son again at Lucknow station, when he himself was going by special train to Calcutta on duty, and that his son had told him that the case was going on and that the accused could not get off, and that he was disturbed about it.

If the story told by the deceased man to his father, as repeated above, were believed, the case against the police officers who were on their trial was substantially established, though its details had to be proved. This was done, in the first place, by calling, in addition to the approver, Shakur, all those who had been charged in the gang case. The list, with the men's ages, castes, and villages, was as follows: Gokaran, 30, Sri Dhar, 30, and Bhurat, 25, all Brahmans, of Gangapur; Kishen Dutt, 44, Brahman, of Jigaria; Bhagaul, 25, and Mahabir, 25, *katiks*, of Phulapurwa; Mahadeo, 40, and Kadari, 17, both *chamars*, of Ganeshpur; Suraj Bali, 25, *chamar*, of Babaganj; Sarju, 30, *pasi*, of Karahnia; Nand Lal, 20, *pasi*, of Tarantpur; Ganga, 32, *pasi*, of Jiagaon; Bhiku Singh, 30, *sikh*, of Jamnaha; Umrao, 30, *katik*, of Chitraya, the same village as that of Shakur; Nazar, 24, *sain*, of Hirminia; Sad-ul-lah, 30, *sain*, of Balagaon; and, last but not least, Dubar, 25, *halwai*, of Jaipur. Some of them, however, managed to purchase their freedom, as will appear hereafter.

All of them were described as cultivators. It is to be noted that, with certain exceptions, all were about the same age; but the age of an Indian villager is very much a matter of guess-work. Even the age of an educated Indian who is a candidate for a post is one of the most puzzling things in this puzzling world. Having passed through the various stages of school, University matriculation,

and his examinations on the basis of a parental statement, he suddenly finds, when he is an applicant for a post for which he is apparently over the prescribed age, that his parents have been wrong all through, and that some learned gentleman has discovered by means of a horoscope that he is really much younger than everybody believed. The problem in the case of the ordinary villager is not so difficult, as there are no materials except his appearance, and none at all are better than irreconcilable ones; and as he has nothing to gain one way or the other, he treats the matter with supreme indifference. Although there were some men of high caste, the majority were quite the reverse. It was singular that they were residents of a large number of different and scattered villages, and the fact raises the suspicion that the police had probably succeeded in laying their hands on a number of men who were really engaged in dacoity, though not members of this or of any other known gang. Dacoits are to be found in large numbers on the boundaries of a country like Nepal, whither they can easily escape. It is even more singular that a perusal of their evidence shows that not one of them was concerned to deny that he had ever taken part in dacoity, although as a matter going to their credit one would have thought that it would be the first question which would have been asked them by the prosecution, who relied on their evidence.

The list of the accused was as follows:

1. Jagannath Singh, Circle Inspector of Police.
2. Wazir Ali Khan, Sub-Inspector, Station Officer of Naupara.
3. Jan Muhammad, Sub-Inspector, Second Officer of Naupara.
4. Wajid Huain, constable, clerk to Jagannath Singh.
5. Ghaus Ali, constable, clerk to Abdul Hakim, deceased.
- 6-9. Mata Din, Muhammad Hashim, Najaf, and Ram Kuber, constables of Naupara.
10. Lachhman, constable on special duty.
11. Ishwar Nath, Brahman, *thekedar*, or lease-holder of several villages, and 'punch', or a sort of headman and member of *punchayats*, of the Balrampur estate, a large raj.
12. Ram Saran Bhand, factotum of Ishwar Nath.

The general character of Ishwar Nath and his presence among the accused demand some attention. He belonged to a class and

was engaged in operations which are well enough known and understood in India, but which are not easy to describe. A *thekedar* is a man who holds and farms large portions of estate and whole villages belonging to a Rajah or big *zemindar*, either as a sort of agent or as a principal, making what he can out of the property for himself, in return for a fixed rent paid to the owner. It must be said that he is only too frequently a thorough-paced scoundrel. It is safe to assert that he has great opportunities of accumulating wealth and of practising oppression and extortion upon tenants, and that with his money and position he finds the business of corrupting subordinate officials in the Revenue department and in the collectorate a comparatively simple matter, and that if he can also corrupt the police, he is able to dig himself into a very strong position; and having once got the police under his influence, he can bend them to his will, and indulge in almost any form of roguery. Such a man is, of course, a continual thorn in the side of the district magistrate and collector, and it was probably a relief to everyone when, in this case, Ishwar Nath was put away for four years' rigorous imprisonment. It is an ill wind which does no good, and the plot worked by Jagannath Singh, which was almost certainly conceived and inspired by Ishwar Nath, had the merit of drawing the latter within the meshes of the law, a difficult thing to achieve with men of his type, and so conferred a real benefit upon the public at large. If one-tenth of the evidence about his machinations which came out at the trial was true, he ought to have been in jail long before. The details of these side-issues are not really relevant. But they established conclusively that under the sort of 'reign of terror' which he and Jagannath Singh had established people were liable to be arrested, not merely for dacoity, but for almost anything, and after being brought to Ishwar Nath were made to buy themselves off with a cash payment; and, as often as not, even then, either because the payment was inadequate or because Ishwar Nath had other reasons for not carrying out his part of the bargain, found that after having made every effort to raise the last *pie* from their miserable resources they got nothing by it, and that the case against them, false or true, had to proceed.

Ram Saran was given the benefit of the doubt. There was some evidence against him and he had made incriminating statements. The strongest fact against him was that he had signed two receipts of fifty rupees each, purporting to be the reward paid to the

informer by the police. He had also stated at the trial that he had come to Naupara when the police force was preparing to set out on their expedition of discovery. The Judge thought it unlikely that the farce was enacted of an informer coming to Naupara to give the false information. Probably all that happened was that a messenger was sent to let the Inspectors know that all the arrangements had been made. It was proved that Mata Din came to Naupara, and it was improbable that another man was sent, too. Receipts for the reward had to be procured, and it was natural that a creature of Ishwar Nath should be pressed into the service for the purpose, while it was equally natural that he should receive nothing for his pains. The Judge thought also that his statement at the trial that he had come to Naupara was made untruly at the instance of the accused, who, as pointed out already, were insisting that the whole transaction was a genuine one. There was abundant evidence throughout the trial that many witnesses were still being influenced in their attitude, and in the evidence which they gave, by fear of Ishwar Nath, even though he was in the dock and in considerable jeopardy, and it was a fair inference that Ram Saran would say and do anything which he was told by his master.

No clearer light can be thrown upon the general nature of the operations by which the conspiracy was worked than by the evidence given at this trial by Shakur, who had become an approver in the gang case, and by the conspicuous Dubar, who had the slit in his nose, and who had confessed so unavailingly. Much tedious and superfluous detail is omitted. Shakur said:

Ishwar Nath, the *shekedar*, goes with the police, and does what they say. In my neighbourhood the richest man is Umrao Singh, and next to him comes Ishwar Nath. In Rupaidiha, Ishwar Nath's orders are obeyed. He has more influence there than anybody else. I know that when anyone is arrested Ishwar Nath says to him that if he pays money he will be released. I do not know anyone who has been released in this way. Ishwar Nath took money from a *nao*, in my presence, in a dog-bite case. There was a complaint that Gaya Din's (the *nao*'s) dog had run from his house and seized the complainant's mother by the leg. Ishwar Nath heard of it and had Gaya Din arrested, and fifteen rupees were paid. Ratan in my presence paid money to Ishwar Nath, but was arrested. I cultivate as tenant of Ishwar Nath. I was arrested at his instance last year in the Gularia dacoity case, and was subsequently released. When the police were inquiring into the Mohanpur

case, Ishwar Nath told me to help to get Mahabir arrested, saying that I should be rewarded. I got Mahabir arrested. I received fifteen rupees as a reward for this, after I had made my statement in the gang case. I was not with the other persons in the Gokulpur *kuti* to commit a dacoity, nor was I arrested there. The confession which I made before the magistrate was false. I made it at the instance of the Inspector, the two Sub-Inspectors, and Ishwar Nath, in fear of ill-treatment. It was taught to me. Except for their teaching, I did not know the names of the men whom I named. Some of them who lived near me I knew; the others I had not seen nor heard of. After I had made it, the police sent me to Rupaidiha. They sent me up for confession of dacoity in the Gulamagaon case, but I did not make it. I was told by the Inspectors that if I confessed they would procure me a pardon, and if I did not they would have my children killed. The statement I made in the Gulamagaon case, after I was pardoned, was false. After I had made my first statement to the magistrate in the Gulamagaon case, and did not confess, I was beaten in Naupara by the lesser Inspectors, Munshi and Lachhman, and on my arrival in Rupaidiha I was shut up and not allowed food. I was kept in the Balrampur bungalow. My mother and wife brought me food. But as they were being treated disgracefully (this is a rather favourite form of charge against the police in a station, and cannot always be regarded seriously, but rather as an excuse for relieving the females from the burdensome task of attending at the station) I stopped them, and for two or three days the *thanadar* gave me food. While I was there, Bhagaule and some others were brought in.

I was first fetched from my house at Rupaidiha by Bihari, a tenant of Ishwar Nath. He came at midnight, and I was awakened. He said that Ishwar Nath had sent for me because the Inspectors were returning by the morning train, and they wanted to inquire about Mahabir. I went with Behari, and on the way he told me about the *kuti* case. I was given a blanket, and slept in the *chaupal*. Next morning Ishwar Nath told Dwarka, *chaukidar*, to take me to Rupaidiha. The Inspectors and some others of the accused were there, and the lesser Inspector asked me about Mahabir. Then the big Inspector spoke to me.

The big Inspector told me that he would tell me something, and that I should have to repeat it. I asked him what it was. He told a *chaukidar* to take me and seat me under the *nim* tree (a shady and sacred tree, and a very favourite spot for police interviews). Then in the daytime I was called into the bungalow. Ghaus Ali, *munshi*, was there, and he read a list of names from a notebook which he had. Both the Inspectors and the Sub-Inspectors were present, as well as Ishwar Nath. I was told to say what they taught me. They were teaching me all day. It was a Monday. On the Tuesday, at Naupara, the black *munshi* (this evidently was a

reference to one of the police clerks in the dock) taught it me again to see whether I had forgotten it. That night I was put in the *kothri* where the other men were locked up. When I was put in, it was getting dark. Dubar was taken out. After midnight, Dubar and I were put in a different room. Next morning we were taken out, and Ishwar Nath and the big Inspector said, 'Say what we require and we will get you released.' Then Lachhman, constable, handcuffed us, and took us to the station and thence to Naupara. We were put up before the magistrate to make our statements. As we were returning from making the statement, we met the other prisoners near the grove. We were all taken back by train to Rupaidiha. An ornament was found in my house. Ishwar Nath, the lesser *thanadar*, Dwarka, *chaukidar*, and others went to my house, taking me with them. Dwarka had the ornament, and they went to a part of the house occupied by my mother, where there was a grain bin. My mother was not there. They put the ornament in the grain bin. Then the *thanadar* came and found the ornament in the grain bin, in the presence of some villagers.

Dubar, in the course of his evidence, said:

I was not in the Gokulpur *kuti* at night, nor did I go with the object of committing dacoity. I was not arrested there. I was arrested at Rupaidiha, at a shop in the bazaar, by some *chaukidars*. They took me to Ishwar Nath, who was sitting on a *charpai* (cot) in the *kothri* near the well. I asked him why he had sent for me. He told me three or four Gorkhali men were needed. He told Mata Din to take me away, and I was taken where some constables were cooking. While I was there three other prisoners were brought in. They told me they had been arrested in the bazaar. My daughter who was with me was crying near the well. Najaj, constable, told her she must go away, or he would throw her in the well. At dusk I was shut up in the *kothri*. Five of us altogether were shut up. Seven or eight were also there, seated under the *nim* tree, by the well. No Inspector was there that day. Another prisoner was brought in next morning. I stayed there four days. On the fifth I was taken with Shakur and the Inspectors to Naupara, by train. On arrival at Naupara, Shakur was taken to the *thana*, inside, and the big Inspector kept me on a *chabutra* (low stone platform used for sitting) near a house there. He and a constable and Mata Din tried to persuade me to make a certain statement. I was kept at the *chabutra* all day, and they arranged my statement. Late in the afternoon they took me before the magistrate. Shakur went first, and made his statement. I said what I had been taught. It was untrue. When I had made it I was taken back to the *thana*. We met the other men who had been shut up at Rupaidiha, at the well near the grove.

Next day I was sent to Bahraich. When I was at Rupaidiha I was

handcuffed, and taken to the estate bungalow. Ishwar Nath and both Inspectors and both Sub-Inspectors were there. The big Inspector said he would make me an approver, and give me ten rupees per month for my wife, and procure my release after two months. They told me to say that we were going to commit a dacoity, and to name thirteen men in all, including some who, I was to say, had run away. We were to have assembled to commit dacoity at a *kurmi's*. I was to say that we had a breech-loader, a muzzle-loader, and a pistol. I said that we had got no such arms, and Ishwar Nath and Mata Din told me not to mind, as they would procure some for us to produce. I was to say that Nazar had a pistol and Nand Lal and Bhiku each had a gun, and that Sarju had escaped with a gun. I made this statement. I have never fired a gun in my life, nor even handled one. I do not know one kind of gun from another. When I was being taught at the Rupaidiha bungalow, I heard the Inspector and the Sub-Inspector address a man by the name of Shankar Lal, asking if the case would do, as the accused had already been detained several days. He replied, 'I have run several cases like this. If it does not work, you can blame me.'

The record of the evidence fails to disclose who this brave fellow was, and whether he got any of the blame which he was so ready to shoulder, but which must have been but poor consolation to Jagannath Singh during his seven years' incarceration. Dubar continued:

When I first refused to become an approver, the Inspector threatened to say that the marks on my leg were gun-shot marks. Finally he said that I should be taken to the *kuti* for identification, but Shankar Lal said there was no need, as my nose was slit. Ishwar Nath asked me for twenty-five rupees for obtaining my release. I said that they had taken five rupees, which was all I had. I have never seen the Gokulpur *kuti*. On the evening after we were handcuffed, we were all taken out and shown to witnesses.

There was a good deal of evidence from other members of the party who were sent up for trial in the gang case, of their having been led out on the occasion just spoken to by Dubar, and shown by the light of a lantern to the village witnesses who were to identify them. There was also a good deal of rather pitiful evidence from members of the party, and from their friends, describing the efforts made by some of them to raise the necessary cash to secure their release, or to satisfy the demands of the avaricious Ishwar Nath. For example, the release of one Mahabir was obtained by his uncle Jawahir. Mahabir was brother to Bhagaule.



The uncle spoke 'in supplication', as he said, to Ishwar Nath, who agreed to release one of the two, but not the other, for the sum of fifty rupees. Jawahir eventually paid forty-three. This sum he scraped together by selling a buffalo cow to one Dhamsa, for nineteen rupees, and by selling rice to one Suraj Bali for twenty-two rupees. The other two rupees, being apparently all the cash he had, he got from his house, and Mahabir was allowed to go. Sri Dhar got off for half-price. Ishwar Nath wanted twenty rupees, but his father, Ganesh, proved that he got him released by paying only ten. Mahadeo was another who escaped in this way. Ishwar Nath wanted only ten rupees for him. He was a mere *chamar*. He was allowed to go home and try his luck, and he managed to borrow five rupees from a friendly Mohammedan, and he raised the other five by pawning his pots and pans with a *kurmi*. Umrao, *katik*, gave a curious reason for having been arrested. He was an exception to the other men, by having disclaimed at the trial any sort of connection with dacoity, and by explaining that the only stain on his escutcheon was some small complaint fifteen years before, when he was only fifteen. His dismal story was that the morning after the *kuti* affair he had had a quarrel with a creature of Ishwar Nath, named Dharm Das, who falsely accused him of having let his buffaloes graze in his field. The punishment which the ordinary villager dislikes most for this cause of offence is the impounding of his buffaloes, as he loses the use of them and has to pay fees, as well as *baksheesh*, from which there is no escape, in order to get them released. Many bloody battles are fought by villagers over attempts to rescue cattle before they reach the pound. 'My buffaloes were not there,' said Umrao, 'so they could not be impounded. It was owing to Ishwar Nath that he made this accusation. He is more "sharp" than Ishwar Nath himself.'

A large body of evidence was called from among the villagers who had been summoned by the police to corroborate the searches and the discoveries of alleged loot in the possession of members of the supposed gang, and others who denied that they had made the statements attributed to them in the police diaries recording the evidence which they were prepared to give against various members of the gang. Only one incident in this monotonous body of evidence is worthy of preservation, and this relates to what was really a side-issue bearing upon the identification of loot. But it established in the mind of the Judge the fact that a

miscarriage of justice had occurred, and it is so typical of the sort of calamity which is certain to occur where police investigation is tainted with roguery and fraud that it is worth examination in the light of the judgment. In the case of a dacoity which had taken place at Sheorajpur, one Ram Saran, a worker in gold, had been the complainant. The Judge wrote:

The diary shows that neither Ram Saran nor his wife nor his nephew was seriously injured, so that there was no reason why he should not have been able to give a full list of his losses at the beginning. It appears to be probable that the additional list of property which he put in on the 30th September was not a genuine one, but was invented to please the Inspector. In this connection I may mention that, in the course of this trial, evidence has come to light which is sufficient to show that Musammat Ramkora was wrongly convicted by my predecessor. She was arrested in January together with a man named Lal Bahadur, a notorious dacoit, who has been executed. She was wearing a considerable amount of jewelry, of which a list is available. There were eleven different ornaments, five kinds appearing in the list given by Ram Saran, and six which could not be the same as any in his list.

Of these five ornaments, four were simple and could not possibly be said to have been stolen from Ram Saran. The fifth was a forehead clasp with chains and pendants, weighing 18 tolas. In the list given by Ram Saran was an ornament of this kind, but its weight was said to be 48 tolas. Evidence was laid before the court that the forehead clasp was the same, though different chains and pendants had been attached, thus accounting for the loss in weight. The weight of Musammat Ramkora's forehead clasp alone was 14 tolas. Thus, chains and pendants weighing 34 tolas were supposed to have been replaced by similar articles weighing 4 tolas. Ram Saran professed to recognise his clasp by a flaw caused by his clumsiness in making it. This had not been noted in the list he gave, and the flaw might have been caused in any other manner. Ram Saran also said in court that if he had wanted to identify as his own an ornament which was not his, it would have been natural for him to select a more valuable one from among those found on Musammat Ramkora. This argument seems to have carried weight with my predecessor, who had not Ram Saran's list before him. As a matter of fact, the only ornaments on Musammat Ramkora which were of more value could not possibly be mistaken for any in Ram Saran's list. The fact that the list was not given by Ram Saran until three days after the first report of the dacoity was concealed from my predecessor. Ram Saran has admitted that he had seen the clasp twice before he identified it in court. He says that he had pointed out the flaw before he identified it, but there is no confirmation of this. Musammat Ramkora was con-

victed of having received the forehead clasp knowing it to have been stolen, and her conviction was upheld on appeal. I think it is clear that her conviction was obtained by wilfully suppressing evidence, and, in the light of what has now been proved, I record my opinion that Musammat Ramkora is entitled to a free pardon.

It only remains to record that the evidence showed that the constables who were on their trial had conducted the *chaukidars* who were playing the part of sham dacoits back to Rupaidiha after their arrest at the *kuti*, and that there the uniforms of which they had been so ruthlessly stripped were duly restored to them. This showed that the constables must have been fully aware then, if they had not known from the first, that the gathering of the gang, and the fight and capture were mere shams. The servant, Murli, was medically examined. It appeared that his wound was a burn an inch long and a quarter of an inch wide on the skin of the left leg. The wound was vertical, or up and down the leg, and no marks of shot were found. It was quite certain that such a wound, at any rate unaccompanied by any other marks of violence upon anyone, could not have been received in a desperate encounter. It was a reasonable inference that someone had loaded a gun with a light charge of powder and a wad and carefully fired it at the leg. It is more than likely, both in the nature of things and looking at the direction of the wound, which was almost enough in itself to give the thing away, that this heroic but perfectly puerile performance was the work of the faithful Murli himself. He was not put upon his trial and, what is even more strange, he was not called for the defence in their effort to prove the genuine character of the affair. He probably thought, like a wise man, that he had done enough, and preferred not to add perjury to his other deeds of heroism. But his absence made a bigger hole in the case for the defence than he succeeded in making in his own leg.

It has already been said that this case cannot be regarded as a type. It is probably without parallel in the history of the police in India. The first question one naturally asks oneself is, how it was possible for several police of varying communities and castes and of different grades, for there were two Sub-Inspectors as well as the constables, to allow themselves to be led into such a conspiracy. There was no money in it and no conceivable award of merit to be won. For the answer one must go back two stages in the inquiry. The presence of Abdul Hakim Khan unquestion-

ably inspired the English Superintendents on the one hand and the subordinate police on the other with confidence in the genuine character of the gang case. There were indications (which have been pointed out already) in the report of the alleged fight which were suspicious and which ought to have attracted the attention of the magistrate who committed the men to trial, and which might have aroused the curiosity of the English Superintendents if they had narrowly scrutinised the details. Probably they did not. Jagannath Singh just then was under a cloud and he knew it. He had always enjoyed the reputation of a zealous officer, and he was not unlikely to put in some hard work to redeem the approval of his masters. This was probably one of his real motives. But in any case he knew enough to be sure that his superiors would be on the look-out for good work from him, and he showed cunning and foresight in asking for Abdul Hakiin Khan to be sent to help him. It is conceivable that the inferior police-officers thought, in the early stages, that they were mere pawns in a genuine and deep-laid police scheme. Such little games are sometimes necessary, though not on such a scale or with such brutality of detail.

When the Prince of Wales came to Allahabad and the possibility of trouble was feared, I saw some ugly-looking loafers in my garden talking to my bullock-men at the well. The road down which the Prince had to pass from the railway station skirted my garden wall fifteen yards from the well. I asked the men what they were doing in my garden. They salaamed and said something about '*intizam, sahib*' (arrangement). I guessed, but my imperfect Urdu was not equal to the situation, and I called my servant, who explained that they were police-officers trying to sound my men on the subject of their politics and loyalty. The humour of it was that my well-man regarded the police-spies as Swarajist emissaries who were trying to get at him to do some dirty work, and he gave them a piece of his mind in very foul language, thus establishing his loyalty and good sense. Police plans have infinite variety and novelty, and some of the constables may have thought in the early stages that this scheme was only '*intizam*', or an arrangement. But there must have come a time when they realised that the whole case was a sham without official sanction, and that even the son of the Viceroy's A.D.C. appeared to be a party to it.

Something more than mere allegiance to the Circle Inspectors

## XIV

### CASTE VENGEANCE

THE proportion in this volume of murder cases arising out of sexual intrigue may seem small. It is certainly less than the proportion reached by the number of such crimes actually committed. But in such cases the murders committed in Indian villages are so free from mystery and any element of doubt that the work of investigation is simple. When a man rushes into the open with blood-stained clothes and a blood-stained chopper in his hand, crying out, 'I have finished it!' or 'The day of judgment is come,' the presumption is that he has murdered someone. When the only mangled corpse in the village is his wife's, the presumption becomes what the lawyers call a 'violent' one. In the chapter on 'A False Confession', the calculations which an outraged husband makes on such occasions before stating the circumstances under which he committed the crime have been discussed. He is generally familiar with the mitigation of punishment which the law allows in cases of grave and sudden provocation, and he is apt to allege that he caught the lovers red-handed, and killed his wife in sudden rage. But this is seldom the case in fact. It is more usual for him to nurse his grievance until it so preys upon his mind that the very sight of his wife goads him into frenzy, and he makes a murderous attack upon her in the middle of the night when she is peacefully sleeping. But what operates upon his mind is a mixture of humiliation resulting from offended dignity and of fear of the consequences to himself of caste action rather than any ordinary feeling of jealousy.

One of the features of the pronouncements made from time to time by the modern progressive politician, who really only wants 'to make things hot' for the Government, but who professes to 'represent the voice of the people', is a determination to break down the barriers of caste and of caste rules and traditions, which form so great a part in the everyday life of the Indian villager.

These professions are little more than 'shop-window dressing', and have but slight relation to reality. He is as little likely to succeed in destroying caste in the countless villages spread over the plains of India as the ruler of Afghanistan was to succeed in his effort suddenly to impose upon his people sumptuary laws based upon the habits and dress of Western civilisation. And if ever any serious progress were made in the task of converting the Indian villager from his ancient rules of life and from his allegiance to the principles of caste control, the last thing to be surrendered would be the unwritten code which governs his relations with his womenfolk.

The wife is, of course, for the most part, in principle a chattel, and in practice a drudge. Her husband is her lord and master. According to the best traditions, she is not allowed even to pronounce his name, and she will not, as a rule, do so even when giving evidence. She prepares his food, but she does not eat it with him. For an act of disobedience, or even for an answering word of argument, she is liable to receive severe corporal punishment. And even if she is seen to laugh, or to 'crack jokes', to adopt the familiar term employed by the translator in interpreting the vernacular, she is not unlikely to have her nose cut off. According to the writings of the ancient lawgivers, her main offence when she is unfaithful is that she has 'sullied the bed of her lord'. The result of this is that the punishment which the caste inflicts for the misconduct of an erring wife falls upon the unfortunate husband. It is not enough for him that the pangs of jealousy have taken hold upon him; that his domestic peace has been disturbed; that his self-respect is destroyed, and that he is exposed to the taunts and gibes of his neighbours. He may be the best of husbands and he may have done all that in him lay to preserve the serene contentment of a peaceful and happy domesticity. But he has to pay for his failure. This hard fate may seem paradoxical to the Western mind, but it is really quite natural. There are many penalties which could be suggested as appropriate to be inflicted on the woman which would probably bring her to her senses and cure her loose propensities. And it happens sometimes that the thing becomes such a source of annoyance and irritation to the caste that she has to pay the penalty with her life, as the present story shows. But the humiliation and degradation have fallen upon the caste through her husband, though nothing he could have done would have prevented it,

and, contrary to the view which has usually prevailed in the West, it is the man who has to pay. Probably the sort of notion that the man has been weak and has not properly exercised his authority and powers of chastisement over his wife, and so has brought a bad name upon himself and upon the caste, lies at the root of this conception of the appropriate punishment, or may at least contribute to the motives for adopting this form of judgment. A *punchayat*, or village meeting of the wise men of the caste, is held, and they decide what shall be done. In cases of a temporary lapse, which are not seriously regarded, or in others where some *modus vivendi* is reached and the trouble is patched up, the penalty inflicted on the man takes a mild form. When it is made pecuniary, the husband smarts under it, though there is nothing novel in the idea, even according to Western ideas, that the husband should suffer in pocket for his wife's vagaries. He may have to provide a big feast—a very common form of penalty. Although this punishment is apt to look somewhat perfunctory—and at times, indeed, is so, inasmuch as the erring woman continues her intrigue and the offended sense of honour of the caste is soothed by the feed—the husband does not like the pecuniary fine, which often drives him to the usurer. He is not unlikely to exercise considerably more control over his wife's movements, though he is handicapped by his absence all day in the fields, and he may eventually resort to murder. If he happens to be a *mari complaisant*, and the caste is seriously minded, he is outcasted, and no worse fate can befall him. But on the whole it appears that these caste interferences work with a curious lack of consistency and with frequent laxity, so that variations in practice of every shade and degree of leniency and severity are met with. At times the husband seems to fade into the background, and the woman's brothers or other members of her family feel the shame so keenly that, if she persists, violence and murder by them in some form or another is almost certain sooner or later to occur. This kind of intervention, which is more a form of vengeance than of anything else, and which is punitive rather than preventive, is not so frequent; and the case which forms the subject of the present story was a departure from the usual course of *ashnai*, or sex intrigue.

There were special reasons for this. In the first place, the husband did not appear in the case at all; in the second place, the probability is that the woman's general character largely influenced the course taken by the avenging caste. And last, but not

least, it is fairly certain that communal enmity was the ruling passion. Musammat Rampo was a comely woman of the barber caste, of about twenty-five years of age. She lived in the village of Soran with her father Dipa. This means that she had either left her husband's home, as these women will sometimes do, especially if they are inclined to be independent and have been chastised for departures from the code of domestic propriety, or she may have been sent back to her parents' home. It may have been that the husband had gone to the war or left his village on service of some kind, and that Musammat Rampo had no other home but that of her parents. It may have been that she had failed to present her husband with a male descendant, and had fallen into disgrace and had been discarded or supplanted by another wife. Either alternative is equally possible, and for some mysterious reason, or possibly as the result of sheer indifference, no one cared to lay the true position before the trial court. Nothing was said about any children, and it seemed certain that the woman had none of her own living with her. If one may speculate, the probability is that she had acquired a general bad character, but there is no actual ground for saying so. The only justification for supposing it is that she showed decision of character and a determination which is unusual with women of her class in uniting herself to Rustam, for whom and with whom she died. But this, again, may have been due to her inability any longer to support life in her parents' home, which is, as often as not, anything but a bed of roses, either for a widow or for a married woman who has been cast off by her husband. Rustam was a Mohammedan cultivator who lived in the same village as Dipa. Musammat Rampo's infatuation for him was unquestionable. She had left her father's house, taking with her all her jewelry, and had gone to Rustam's house to live with him as his wife, though he already had one Mohammedan wife, Musammat Jumni, living there. Such incidents, particularly when the parties belong to the two communities, Hindu and Mohammedan, invariably create an almost intolerable situation. It is perhaps worse when, as in this case, the erring woman is a Hindu, and leaves her parents' house to live with a Mohammedan. But the situation is generally relieved by the pressure which is brought to bear upon the parties locally, and before which they bend and consent to restore the *status quo*. In this case, local pressure was of no avail. Musammat Rampo could have left Rustam if



she had chosen, but she was a determined little woman, and she snapped her fingers at the barbers. This made Rustam rather more obviously pleased with himself than was wise. Dipa, the father of Rampo, was a mild sort of person, and he left matters very much to his son Ganga. But he had to pay the penalty, and he had been outcasted by the barbers. This preyed upon his mind. To some natures, to be outcasted is almost unbearable. The sight of his father's sorrow and the humiliation under which he had to live day by day worked upon Ganga's feelings and he became very angry. He enlisted the sympathy of the *zemindar*, who was only too glad to seize the opportunity of punishing a Mohammedan family, and eventually the barbers, urged on by the *zemindar*, who promised them immunity from police interference, decided to rid the village of the daily scandal.

They made no secret of it. One morning, when everyone was out working in the fields, nine men, mostly of the barber caste, led by Ganga, made short work of Rustam while he was in his field. They gave him no chance. Ganga went up to him and began one of his customary remonstrances with a view to inducing him to send Musammat Rampo back to her parents' home. He was met by the usual refusal, and high words soon followed. Other members of the party came up to hear what was going on and to join in, and at a given signal a shower of *lathis*, the heavy iron-shod bamboo pole which every villager carries, descended upon Rustam and beat him into a pulp. The nine men then removed certain portions of his anatomy which are usually dealt with on such occasions, and left his corpse blistering in the sun while they went off in a body to his house. It is not unlikely that someone ran before them to warn the inmates that Ganga and the barbers were coming. When they arrived they found the door chained on the inside. They called Rampo, who told them that Rustam was out in his field. This made no difference and they began to beat on the door with their sticks. Shortly afterwards Musammat Rampo appeared upon the roof, accompanied by Musammat Jumni. The latter may have been in some fear for her own safety, though there was no cause for it, except for the risk that, if an infuriated crowd of men broke in, they might have mistaken her for the woman they wanted. But there was a pathetic touch to the evidence which went to show that Musammat Jumni was doing her best, in her woman's way, to comfort her rival and to give her what feeble sort of protection she could,

and that she besought the invaders to go away and to leave the woman alone. She cried for assistance, but no one was in the least likely to face the howling group of men, who were now well beyond control. They had tasted blood, and their temper was excited to ungovernable rage and lust by the sight of the woman who was at the bottom of all their trouble, in possession of the dead man's house. It was evident that they did not intend to leave without her. One can imagine the thoughts which surged in Musammat Rampo's brain during those few dread moments. Flight was impossible. Resistance was idle. From the decisions of lynch law there is no appeal. She could hardly have failed to realise then that Rustam had been killed. Probably the thought reconciled her to her fate. But it is one thing to face the risk of death in the heat of battle, or in desperate endeavour, when the chance of self-preservation is a lively hope, within the bounds of reason. It is otherwise to stand face to face with it, full of life and of the enjoyment of life, and conscious of the energy within and of the will to live, in the bright light of day, detached from the instrument of death yet knowing that it is for you, and seeing it draw nearer and nearer with each breath you breathe. Musammat Rampo had not long to ruminate on the fate in store for her. Someone followed her on to the roof, and she was brought down. And there, as she stood at her door in the midst of her executioners, she was felled to the ground with quiet ceremonial, and the life was beaten out of her senseless body. Her corpse was tied to a pole, and carried out into the fields and laid by the side of her lover's. A cold and bare report was made at the nearest police station of the discovery of the two bodies. But not another word was said. The *zemindar* and the brotherhood of barbers had their hand upon the village, and when the police arrived they were received with sullen silence. No one knew anything about what had happened. There is only one thing which a Sub-Inspector can do in such a case, which neither surprises nor embarrasses him. He must quarter himself on the village until something happens. And eventually something did happen. He discovered three young men from a neighbouring hamlet who had been working in an adjoining field, and who were induced to repeat what they had seen. They knew Ganga and his companions well by sight, and the nine men were committed to trial.

Then happened one of those pathetic but, under the administration of British justice, futile examples of the willingness of the

Hindu father to sacrifice everything for the object of leaving a son surviving him to perform his funeral ceremonies and the annual rites for the good of his soul, and to carry on the family. The unfortunate Dipa had nothing left to live for. He had been disgraced and outcasted; his home was broken up; his daughter had suffered dishonour and death; his son was on the way to the gallows. He confessed his own guilt. He went to the magistrate and under the forms prescribed by law he told how he had suddenly come upon Rustam and his daughter Rampo, out in the fields, in the very act of committing adultery, and how in the onset of shame and rage he had hammered them to death. There was a touch of poetry about the confession, and a good deal of vivid imagination about the detail of it. Its one defect was that it was too late. There was nothing for it but to commit Dipa to trial also, and to have the two irreconcilable stories sifted as best they might be. The occasion did not arise. The broken-hearted Dipa died in jail while awaiting trial. For him it was the best solution. For the rest, it could make no difference. There was not a grain of verisimilitude about his story, and no one was likely to have convicted him upon it, of murder or of anything else. Nor could his heroic effort, if he had survived, have availed to save his son. The dishonour done to the caste was avenged, but no one of the family survived to enjoy the triumph of virtue, unless it was the husband, who seemed to be the one least concerned.



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