

**BEFORE THE HON'BLE 2nd ADDITIONAL District and SESSIONS
JUDGE, RAIPUR**

Sessions Trial No._____/2007

State

Versus

Pijush Guha & Other

Synopsis of Arguments for Accused Dr. Binayak Sen .

1. The case is based on circumstantial evidence. The law relating to appreciation of circumstances is:
AIR 2009 SC 378 (paras 11, 12)
2. There can be no conviction on suspicion, surmises, or conjectures.
AIR 1990 SC 79 (paras 18-21)
AIR 1991 SC 1388 (para 11)
(2006) 12 sec 306
3. If a piece of evidence is not put to the accused in his examination u/s 313 Cr P C, it cannot be used against him.
AIR 2004 SC 5068 (E)
(2006) 12 SCC 306(C)
4. A reasonable explanation by the accused regarding a piece of evidence has got to be accepted
AIR 1956 SC 217
5. No presumptions can be raised against an accused unless it is permitted by Law
AIR 2008 SC 2467 (B)
6. Mere production and marking of a document does not amount to proof of the contents of the document .
AIR 1971 SC 1865 (A)
(2003) 8 SCC 745 (para 16)
7. Article 20 of the Constitution prohibits retroactive application of penal law. Therefore, the CG Special Public Security Act and the Unlawful Activities Prevention Act are not applicable to the accused.
AIR 1977 SC 2091

AIR 1991 SC 2173

8. Confession to Police is barred by s 25 Evidence Act. Therefore, the confession of Guha is inadmissible.

AIR 1966 sc 119

9. The letters from Guha were found on Search and seized u/s 102 Cr. PC. Any statement made by Guha subsequent to this would not be covered u/s 27 Evidence Act.

AIR 1976 SC 483

2005 Cr L J 3950 at 4001, 4002

10. A confession contained in a statement u/s 27 Evidence Act is in any case inadmissible.

AIR 1962 SC 1116 (A)

AIR 1963 SC 1113

AIR 2003 SC 4076 (para 10)

11. The evidence of the jail officials is that no letters could have been passed to Binayak Sen by Sanyal during the interviews. This evidence is binding on the Prosecution.

AIR 2010 Sc 979 (A,B)

12. A statement recorded under 161 Cr PC is not substantive evidence. Therefore, (ev p 154) of Gopanna (PW 16 is inadmissible

AIR 1980 SC 873

(2007) 7 SCC 378 (C)

13. Important omissions in the statement u/s 161 Cr PC of witness Deepak Choubey (PW 7), Vijay Thakur (PW 41) and others render their testimony unreliable

AIR 1996 SC 2478 (C)

(2001) 9 SCC 1 (para 50-52)

14. Hearsay evidence of Vijay Thakur (PW 41) and Sher Singh (PW 49) that accused attended meeting of Naxalites is inadmissible.

AIR 1983 SC 906 (para 13)

15. The evidence of B S Rajput (PW 97) that he viewed a video recording of Binayak Sen meeting Naxalites in a jungle is inadmissible by virtue of section

59 Evidence Act , which prohibits proof of documents by oral evidence . A video recording constitutes documentary evidence as defined by s 3 Evidence Act, and proof of contents of documents is stipulated in section 61,62 Evidence Act.

16. If there is no re sealing of documents found in the house search of accused, then the seizure of Art. A/37 cannot be believed.

AIR 2003 Sc 4076 (B)

17. An anonymous letter like Art A/ 37 is inadmissible in evidence

AIR 1993 Sc 2633.

18. Frequent meetings between accused does not prove conspiracy.

AIR 1977 Sc 1489 (para 8)

AIR 1987 SC 955 (para 14)

19. It is no offence to read or hear seditious matter. Therefore no offence u/s 124 A IPC is made out

AIR 1972 SC 373 (para 5, 10)

AIR 2000 SC 464

PRAYER

That the synopsis of arguments may kindly be taken on record.

16.12.2010

Raipur

Counsel for Accused

