

40/84

No. 19 of 1983

IN THE PRIVY COUNCIL

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O N A P P E A L  
FROM THE COURT OF APPEAL OF MAURITIUS

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B E T W E E N :

LOUIS LEOPOLD MYRTILE

Appellant

- and -

THE QUEEN

Respondent

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ANNEXURE 1

STATEMENTS OF WITNESSES CALLED

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O N A P P E A L

FROM THE COURT OF APPEAL OF MAURITIUS

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1  
ORIGINAL

"A1" 1

Riviere Seche Police Station

STATEMENT of Mr James Hector alias James

Occupation: Stonemason at Roy Stone Crusher

Aged 27 yrs

Residing at Clémencia near Co-operative Shop

Religion: R C

On the 3.12.79 at 12.00 hrs I met with abovenamed at Station who stated to me the following in creole. (sd) P C 1971 Bhikari.

I reside at Clémencia near the Co-operative Shop and I live together with my father, mother, a brother, two nieces and a nephew. We all live in the same house I have an aunt called Liline Sarah who resides at Camp de Masque and last Thursday my mother called Irene Sarah received news that her sister, who resides at Camp de Masque Pavé, was ill and my mother had told me she would go to visit her sick sister at Camp de Masque Pavé on Sunday the 2.12.79. My mother suffers from arterial tension. I remember yesterday the 2.12.79 at about six o'clock in the morning my mother Irene Sarah was getting ready and had put on a white gown with blue floral designs. She wore brown leather sandals and before leaving and going away she informed me that she was going to visit her sister at Camp de Masque and that she shall return on the same day. At about five and a half on the same day, not seeing her back, I started worrying. I took a means of transport and went to look for her at the place of my aunt Liline Sarah at Camp de Masque Pavé but I did not see her and I asked my aunt whether she had come to her place and my aunt replied in the negative. I also went to look for her at the place of my sister called Yolande Hector who resides at Camp de Masque Pavé but did not find her there either and I asked my sister Yolande whether mother had come to her place and she replied in the negative. Then my brother called Toussaint Hector went to a relative's place at Flacq, but she was not found there and the relative told my brother that she had not gone there. That brother of mine went to look for her at the place of a relative at Bel Etang but she was not to be found there either. After my brother and myself have looked for her at the place of all the relatives we have and not having found her, we returned home and up till this morning at about nine o'clock in the morning she has still not returned. According to me she has not had any argument at home and no one has committed any mischief to her. Further I cannot say where she has been. My mother is of sound mental state. She may be of five feet and five inches in height.

The above statement has been read over by me to Mr J Hector who acknowledges it to be true and correctly recorded.

Signature of Maker: (sd) James Hector

(sd) P C 1971 Bhikari


Signature of Recording Officer

Signature of Witnesses: (sd) P C Ramparsad

P C 1971 BHIKARI

Name and Rank of Recording Officer  
(in block letters)

Place, Date and Time: at Station on 3.11.79 at 10.20 hours

" 61" 

STATEMENT OF: JAMES HECTOR

Nos. 581261-581262

Occupation: Stone Mason

Aged: 27 years

Residing at Clemencia

Religion: R.C.

On 4.12.79 at 17.00 hours, I saw the abovenamed at Clemencia and who stated to me the following in Creole.

When my mother Irene Sarah left home on Sunday the 2nd of December 1979, she wore a white dress with blue floral designs and red spot and she bought a bag in which there were sweet potatoes and tubers which had not yet been boiled, bring for her grand child at Camp de Masque Pavé. To-day Tuesday the 4th December at about 4 hours in the afternoon, I accompanied the Police and the Police doctor (Dr. Sohun) on a small hill at Clemencia, I saw under a travellers' tree the remains of a person who had been burnt. The doctor examined the remains in my presence and I saw some fragment of cloth of the same colour (i.e.) flowers and Red spots which my mother wore when she left the house on last Sunday. I saw some hair-pins on the skull which was burnt and the doctor removed them. They look like the hair-pins that I used to place in her hair.

By all these indications, I was sure that it was the body of my mother where had been found the body of my mother, there were also tubers and sweet potatoes.

The above statement has been read over by me to J.Hector (Name of person making statement) who acknowledges it to be true and correctly recorded

sd. Jhaumeer

signature of Recording Officer

Signature of Maker James Hector

Signature of Witnesses (s) B Sewgbin PS 1568

Name &amp; Rank of Recording Officer sd. JHAUMEER

Place, Date and Time at Clemencia on 4/12/79 at 17.20 hrs.

~ C. d  
No. 581180

STATEMENT of Mr Louis James HECTOR

Occupation Stone breaker

Aged 27 yrs

Residing at Clemencia

Religion ?

On 7 12 79 at 09.45 hrs I saw abovenamed a Flacq CID Office and he voluntarily stated further to me in creole (s) PG 1628Renghen

Last Sunday, the 2nd of December, 1979 in the morning when my mother Irene Sarah left the house to go to Camp de Masque Pave she wore a pair of brown skin sandal. She took a rose cardigan with her. She also brought a vacoas bag in which there were tubes, sweet potatoes and mangoes. Now at the Flacq CID Office the police is showing me an old pair of sponge sandal with blue band. This pair of sponge sandal is not for my mother.

The above statement has been read over by me to Mr Louis James Hector who acknowledges it to be true and correctly recorded.

(sd) R Renghen P C 1628

Signature of Recording Officer

Signature of Maker (sd) James Hector

Signature of Witnesses (s) Jhaumeer

Renghen P.C 1628

Name & Rank of Recording Officer  
(in block letters)

Place, Date and Time at Flacq CID Office on 7.12.79 at 09.57 hrs

^ D, " f

STATEMENT. Widow NOELI CORTEAU born Miss Noeli Sarah alias Liline

Occupation Labourer

Aged 59 years

Residing at Camp de Masque Pavé Riche-Rd.

Religion R.C.

On 6.12.79 at 11.20 hours, I saw the abovenamed at C.I.D. and who stated to me the following in Creole.

I live at Camp de Masque Pavé, near the house of my nephew Luc Sarah. Juline Sarah who is known by the nickname of Irene (deceased) was my sister and was the mother of that nephew. She was living at Clemencia with her second (marriage) whose name is Hector and her children by second (marriage) but she often came to visit me and he came on foot and also returned on foot. And she used to bring sweet sweet potatoes, tubers and green plants used as vegetables and sometimes some mangoes also. I was injured at my right eye at work and I sent word to her on Wednesday the 28th November 1979 that my eye is affected but she has still not come to visit me. Last Sunday, the 2nd December 1979, she did not come to my place. On the same Sunday at about 7.30 hrs in the evening her son James Hector who lives with her came to my place and he told me that "my sister left the house in the morning to come to visit me but has not yet returned to her place". And I told him that my sister has not come to my place at all, the boy went away.

The above statement has been read over by me to N.CORTEAU (Name of person making statement) who acknowledges it to be true and correctly recorded.

Signature of Recording Officer sd. JHAUMEER

Signature of Maker

Signature of witnesses

Name and Rank of Recording Officer sd. JHAUMEER

Place, Date and Time at C.C.I.D. on 6/12/79 at 11.40 hours.



## STATEMENT

LUC SARAH

Occupation: Mechanic

Aged 39 years

Residing at Camp de Masque Pave

Religion: R C

On 4.12.79 at 12.30 hours I saw the abovenamed at R Sèche Police Station and who stated to me the following in creole. (sd) M Jhaumeer, D I

Irene (Hector) Sarah, my mother aged 56 years, is married to Regis Hector, she lives together with her husband and my step brothers and sisters in Clemencia. She is used to come and visit myself and other relatives at Camp de Masque Pave. She goes her way from Clemencia to Camp de Masque Pave on foot. From Clemencia to Camp de Masque Pave there is a distance of 3 miles. The road is hilly and is bordered by sugar cane fields. Last Sunday the 2nd December 1979 at about 6 o'clock in the afternoon when I returned home from work my wife told me that my step brother Tousaint Hector had come to look for my mother at my place because my mother had left her place at 6 o'clock in the morning to come to Camp de Masque Pave to the place of my aunt Liline Sarah. As soon as I learnt that my mother had not come to Camp de Masque Pave, I went out in my car to look for her at the place of relatives in Camp de Masque, L'Union and Bel Etang but I did not find her and I returned home at about 8 o'clock at night. That night I did not come to inform police because I did not think of any misdeed. On the following morning, Monday the 3rd December 1979 as my mother had still not returned, I asked my step brother to report it to the police. Yesterday, Monday the 3rd December 1979 I again went out for searches at the place of relatives who reside far away. I returned home at about 4 o'clock in the afternoon without having found my mother. Thereupon my wife Lorence Sarah told me that some Indian ladies who reside at Camp de Masque Pave had come to tell her that they had seen one Popol Mertille with a knife and a bottle on 'Petit Montagne' at Clemencia on Sunday last at about 7 o'clock in the morning and he had prevented them from going to cut grass on that mountain. My wife knows those ladies and has not given me their names. Immediately after I obtained this information and as Popol Mertille was not on good terms with my mother because my mother was not happy about his keeping one of my step sisters called Celine Hector as mistress, I became suspicious, I gathered volunteers in the locality and I started searching for her on that mountain. We searched for her until dusk but had not found her and we returned home. To-day Tuesday the 4th December at about 8 o'clock in the morning on my return home from Flacq, my wife

f

informed me that another Indian lady and a creole lady who also reside at Camp de Masque Pave had come to tell her that they had seen Popol on 'Petit Montagne' at Clemencia this morning and Popol had asked them not to collect wood on that mountain and they returned. Thereupon I immediately took several persons with me and went for a search on that mountain. I did not find Popol there. At about 11 and a half hours in the morning whilst we were searching a boy, whose name I have forgotten, who resides in my locality, found my mother's body underneath a traveller's tree, shouted and all the persons who were searching went to see. In fact I saw the body of my mother had been carbonised and there were small bits of gunny on her body. Her face was visible and I recognised the body of my mother. I immediately informed R/Seche Police and police came and drove everybody a distance away and started keeping sentry over the body. Popol Mertille is aged about 42 years and works as a caterpillar driver. He resides opposite the house of my mother at Clemencia. (sd) Luc Sarah

The above statement has been read over by me to L Sarah who acknowledges it to be true and correctly recorded.

Signature of Maker (sd) Luc Sarah

(sd) M Jhaumeer, D I

Signature of Recording Officer

Signature of Witnesses (sd) Attungue

M JHAUMEER, D I

Name and Rank of Recording Officer  
(in block letters)

Place, Date and Time: at R/Seche Police Station on 4.12.79 at 13.15 hours

STATEMENT:of LUC SARAH

Occupation: Mechanic

Aged: 39 yrs

Residing at Camp de Masque Pavé

Religion: R.C.

Further states at the Flacq C.I.D.Station.

Yesterday, Tuesday 4.12.1979, I gave a statement to the Police, and I made a mistake. I have said that I recognised my mother by her face. In fact, her face has been burnt. As my mother was lost, I at once thought that it was her. And that was the reason why I said that my brother James saw and recognised her by some fragments of the cloth which my mother wore. I have said that my mother's name is Irene Sarah but in fact her actual name is Juline Sarah, To-day, Monday the 5.12.79 after the Police doctor had examined the remains of the body of my mother, Juline Sarah, the Police handed over to me the body for burial purposes.

The above statement has been read over by me to L. SARAH (Name of person making statement) who acknowledged it to be true and correctly recorded.

Signature of Recording Officer

Signature of Maker

signature of Witnesses

Name and Rank of Recording Officer M.Y. GOOLALALLEE PC 176

Place, Date and Time

on 5.12.79 at 13.20 hours.

Nos. 581258 to 581260

Place C.I.D. STATION

G.I.  
1/1

STATEMENT OF MR. DEANESWAR FOOLESSUR

Occupation: Laboureur

Aged 29 yrs

Residing at Camp de Masque Fave, Soolaly Rd.

Religion: Hindu

On 4.12.79 at 14.00 hrs at Clemencia, I saw above named and he voluntarily stated the following to me in creole. (7) P.C. Renzhen

Luc Sarah is a friend of mine, he lives at Camp de Masque Fave in the same locality where I live. Today, Tuesday the 4.12.79 at about nine o'clock in the morning I was at Camp de Masque. I met Luc Sarah he told me that his mother was lost to give him a hand to look (for her). I and several persons in the locality went along with Luc and he told us let's go and search on Ptit Montagne at Clemencia. Thereupon we came (along) we divided ourselves into groups on Ptit Montagne, from Camp de Masque Fave to Clemencia we started our search. Towards eleven o'clock during the day while I was searching on Ptit Montagne I came near a traveller's tree. there I saw that something had burnt under that traveller's tree. I drew near I saw as if a person had been burnt because I saw that the bones and the head of a person had been burnt there. I immediately called for Luc Sarah and the other friends who were searching they came and they looked. Thereupon immediately Luc went to inform the Police. The Police came and kept watch on that body. While I was searching I did not find any clothes or slippers. In the state in which I saw that body, I am unable to say whose body it is. The spot where I saw the burnt body is at a distance of about 10 gaulettes from a path used by people who come to fetch wood. (3) D. Foolessur

The above statement has been read over by me to Mr. Deaneswar Foolessur who acknowledged it to be true and correctly recorded.

(3) P. C. 1628 Renzhen

Signature of Debar: (3) D. Foolessur

Signature of Recording Officer

Signature of Witnesses: (3) Jhameer

Place, Date and Time: at Clemencia on 4.12.79 at 14.20 hrs.

STATEMENT: Mr. LUTCHINEENARAIN DHORAH alias DHORAH No.581201

Occupation: Casual Works Overseer of Ministry Local Government

Residing at: Junction of Tamil Temple & R/Rd Clemencia.

Religion: Hindu

Aged: 38 years

On Wednesday 5th of December 1979, at 18.15 hours. I met the above-named at Clemencia and he stated the following to me in creole.

I live at Clemencia at the junction of Royal Rd and Tamil Temple Rd. I know well Mrs. Irène Hector (Deceased) and Popol Myrthil as well. They live at a distant of about one quarter mile before reaching my house while proceeding from the direction of Bel Air to go to Camp de Masque Pavé. They could go along the Tamil Temple Road and come out on Royal Road before my house, then proceed along Royal Road to go towards Camp de Masque Pavé or they could go along Royal Road itself in front of my house and go to Camp de Masque Pavé. That Tamil Temple Road also leads to Clemencia Estate and that also when one takes a short by way after that Royal Road, 'its junction' can emerge again on Royal Road and lead towards Camp de Masque Pavé again. Last Sunday, the 22nd December, 79 at about 7.15 hours in the morning I was in my yard, I saw well Popol Myrthil riding a bicycle along that Tamil Temple Road to go to the junction of Royal Road. He was at a distance of about 10 gaulettes from that junction. I noticed he was wearing a ~~khaki~~ short, I have forgotten the type of his shirt and hanged to the handle bar of his bicycle, there was a bag made of cloth or of green colour tarpaulin. I did not pay any heed to him and I am unable to state whether he went along Royal Road leading to Camp de Masque Pavé or whether he continued his way and went towards the Estate, but I am positive that he did not go towards his house. After about 2 minutes that I saw Popol Myrthil passed by, I saw Mrs. Irène Hector (Deceased) walking with a bag or a Vacoas bag in her hand. I did not notice whether she was going in the direction of Camp de Masque Pavé along Royal Road. The lady was alone and I did not see any other person on the road. That lady was wearing a whitish dress and that dress was full of small bluish flowers as far as I can remember. I am



in good terms with Popol Myrthil and with Mrs. Irène Hector (Deceased) and  
I have never had any problems with them.

The above statement has been read over by me to Deponent (Name of person  
making statement) who acknowledges it to be true and correctly recorded.

sd. B SEWGOBIN PS 1568

Signature of Recording Officer

Signature of Witnesses sd. JHAUMEER

Name and Rank of Recording Officer (sd) Bardwar Sewgobin P S 156

(in block letters)

Place, Date and Time at Clemencia on 5/12/79 at 18.30 hrs.

Nos 558177 to 558179

C / C.I.D. STATION

STATEMENT : MAUD LACHARMANTE, wife of LEOVILLE HECTOR

Occupation: Labourer

Age: 41 yrs

Residing at Clemencia, near Chapel

Religion: R. C.

States on 13.12.79 at 13.50 hrs at her place (S) P. S. Basset

Mrs. Irene Hector is my husband's aunt, her husband is the uncle of my husband. We live in the same locality at Clemencia. On Sunday the 2nd December 1979, while the radio was announcing that it was seven o'clock in the morning, I left my house to go to my sister's place at Clemencia near the school, I met aunt Irene (deceased) on the road near my house, near the chapel, she was going towards Camp de Masque, she was alone, she was wearing a dress with blue floral designs and red spots on a white background; she was wearing a scarf colour blue around her head and she had a woollen pullover colour red, laid over her shoulders, she had a bag in her hand, I do not know what that bag contained, but there was some thing which was covered with a newspaper. I talked to her, I asked her where she was going, she told me that she was going to see her sister who was sick and who lived at Camp de Masque Fave. I told her, well, take a means of transport, go through Flacq, but she told me that she is used to walk and that she always used to take that way, that she enjoyed having a walk in the early morning and she continued her way. I went on my way. The next day, on Monday the 3rd December, in the afternoon, I was informed that aunt Irene had not yet returned home and that her children were making searches, and on Tuesday the 4.12.79, her body had been found, burnt on Ti Montagne at Clemencia.

R.T.P. of deponent

The above statement has been read over by me to M. Lacharmante who acknowledges it to be true and correctly recorded.

R.T.F. of Maker

(S) P. S. Basset  
Signature of Recording Officer

Signature of witnesses (3) Illegible

Place, Date and Time: Clemencia 13/12/79 at 14.05 hrs

Flacq C.I.D. STATION

STATEMENT: Mrs. ROODWANTEE PADARUTH, wife of LALLCHAND DOOKEE

Occupation: Labourer

Age: 43 yrs

Residing at Camp de Masque Pave

Religion: Hindu

States on 12.12.79 at 14.25 hrs at her place. (S) P. S. Basset

States in Bhojhuri under the interpretation of F.C. 1063 Sadeo.

On Sunday the 2.12.79, I left my house after seven o'clock in the morning in company of my two children, Sureika aged eight years and Babita who is nine years old, to go and cut wood at a place called Ti Montagne at Clemencia. Arriving at Ti Montagne after Font Sec, there is a lane which all people use to go on Ti Montagne near a pine-apple plantation. While I was on the road at that spot, I heard sugar cane shaking, thereafter I stood still and then I took that mountain track, on that track I found out that the soil had been tampered with, I entered in company of my two children over a distance of three gaulettes, while I was walking, I saw broken sugar cane leaves, I thought that it was not normal, I did not dare to continue my way to go and cut wood and I returned home with my two children, and I met my nephew Sonand (Dharandeo Dookhee) on the way; Sonand asked me why I was coming back, and I told him not to go further because I had seen, amongst others, broken sugar cane leaves in Ti Montagne road, it could be that there are thieves overthere. And I went back home. The time at which I came near Ti Montagne could be eight o'clock in the morning. Two days later, on Tuesday the 4.12.79, I heard that the Police had found the body of a person on that mountain. Today, Wednesday the 12.12.79, at ten past two in the afternoon, I have accompanied the Police (C.I. Madoorapen & myself), I have shown the spot near Ti Montagne where I had heard sugar cane shaking and the spot where I saw that the soil had been tampered with. At the spot where I heard sugar cane shaking, I have today noticed that sugar canes had been burnt at that spot. R.T.P of Dep.

The above statement has been read over by me to Mrs. R. Padaruth under the interpretation of P. C. Sadeo, she acknowledges it to be true and correctly recorded in presence of his son Sureish Dookhee

R.T.P. of Maker

Signature of Witness: (S) Sureish Dookhee

P.C. Sadeo

(S) Det. Sgt. 545 Basset

Signature of Recording Officer

Place, Date and Time: Camp de Masque Pave on 12.12.79 at 14.40 hrs.



No. 581292 - 581293  
CENTRAL FLECCQ C.I.D. STATION

K1/φ

STATEMENT of Mr. BARAMJEO DOOKHEE alias Son

Occupation: Labourer

Aged 28 years

Residing at Camp de l'asque Pavé, last house; Religion: Hindoo

On 7.12.79 at 16.30 hours I met the abovenamed at Camp de Masque Pave and he stated the following to me in creole.

(Sd) DOSOOYE

On Sunday last, 2.12.79 at about eight hours in the morning, I was at home, Mrs Chand, my aunt who stays near my house came to see me and told me that there was a thief near Ti Montagne. Immediately, I took my bicycle and went to Ti Montagne near a pineapple plantation. I was on the main road. From the road itself I looked in the direction of the mountain near the pineapple plantation in a lane, I saw at a distance of about thirty gaulettes a person whom I well know, he is called Popol, he stays in Clemencia. He was standing and looking in the direction of the road, and he was alone. He was wearing a pair of shorts and a shirt whose colour I do not know. I did not talk and I did not notice if he was holding something in his hand. Thereupon I returned home and I told Mrs Chan that that person was not a thief and I knew him well. On Tuesday afternoon the 4.12.79, I learned that ahead on the road where I saw Popol a burned body was found. Mrs Fokeea is my mother in law.

The above statement has been read over by me to D.Dookhee who acknowledges it to be true and correctly recorded.

Name of person making the Statement

(Sd) Dosooye

Signature of Recording Officer

Signature of Maker: (S) D.Dookhee

(Sd) Illegible

Signature of witnesses

(Sd) Illegible

FC 808 DOSOOYE

Name and rank of Recording Officer  
(in block letters)

Place, Date and Time: At Camp de Masque Pave on 7.12.79 at 16.45 hours

STATEMENT OF DORNNEO FOOKHTE alias Sonand

Occupation: Labourer

Age 28 years

Residing at Camp de Lesque Favé

Religion: Hindu

Further states on 12.12.79 at 15.20 hours at TI MONTAGNE Clemencia.

(Sd) BASSET

When I met my aunt Mrs Chan (Mrs Roodwantee Indaruth) on Sunday, the 2nd 12.79, at about eight hours in the morning, I met her in the main road which leads to Ti Montagne. After that she told me that she believed there was a thief near Ti Montagne, I took my bicycle and rode to Pont Sec, Clemencia. I rested my foot on a kerb stone of the bridge and I looked in the direction of Ti Montagne, and from there, I saw Popol standing on higher grounds near a prickly thorn bush (li-unt louploup); near a banana tree at the beginning of the pineapple plantation. As Popol recognized me he waived to me, I also waived to him, and from there I was, I shouted loudly. I told him :-

"My aunts say that there are thieves there; they have not been able to collect the wood".

Popol answered me:-

"I am picking some mangoes."

From where I was, I saw Popol wearing a shirt, the colour of which I do not remember, with Khaki shorts. I took my bicycle and returned. I went to cut grass at Teru Vallon. When I came back home with my fodder, I told my aunt that there was no thief there. I have seen a person there at Ti Montagne. He is a kind person. I know Popol since about five years. I do not know his surname but I know that he works as Caterpillar driver at F.V.E.L. and he stays at Clemencia. I see him often because I own a field at Clemencia in the locality in which he lives. I am positive that the person I saw on the mountain was Popol himself. Today, Wednesday 12.12.79, at about three in the afternoon, I have gone to indicate to Police (C.I. Indorapen, IG Basset) the spot where I was at about 800 Clemencia and the spot where I saw Popol standing on Ti Montagne on Sunday the 2.12.79 and where he told me he was picking mangoes.

The above statement has been read over by me to D. J. J. J. who acknowledges it to be true and correctly recorded. (Name of person making statement)

(Sd) BASSET

Signature of Recording Officer



Signature of Maker: (Sd) D. Dookhee

Signature of Witnesses: (Sd) Madoorapen

Det. PS BASSET 545

Name and Rank of Recording Officer

Place, Date and Time: Clemencia on 12.12.79 at 15.50 hours

STATEMENT: DARAMEDEO DOOKHEE

Occupation: Labourer

Age: 28 yrs

Residing at Camp de Masque Pavé

Religion: Hindu

" M, " I

Further states on 13.12.79 at Central Flacq Police Station.

To-day, Thursday the 13th December, 1979 at 5.00 p.m., the Police (Insp. Padayachy) held an identification parade in the yard of Flacq Police Station. Several persons were stood in a row. The Police asked me to choose among those persons whom I know under the name of Popol, whom I saw on Ti montagne at Clemencia, on Sunday the 2.12.79 at about 8 o'clock in the morning and he told me that he was gathering some mangoes. I went directly to Popol who was first on the parade and I touched him. (Witness identifies Leopold Mirthil alias Popol). He is the said Popol and I am positive that I am not making a mistake.

The above statement has been read over by me to D. Dookhee (Name of person making statement) who acknowledged it to be true and correctly recorded.

Signature of Recording Officer

Signature of Maker D. Dookhee

Signature of Witnesses

Name & Rank of Recording Officer

Place, Date and Time C/Flacq, on 13/12/79 at 17.25 hrs.

Flacq CID STATION

STATEMENT FROM THE DEFENDANT alias Scid

Occupation: Stone mason

Aged: 22 years

Residing at Temple Road, Clemencia

Religion: R.C.

On 5.12.79 at 21.00 hours, I saw the abovenamed at Hoka CID and who stated to me the following in Creole in presence of Mr. Kusruthsing SHMF. (sd) M S Jhaumeer

I live in Tamil Temple Road at Clemencia. I well know Popol Mertille who works as tractor-driver at FUEL (Flacq United Estates Limited) and lives at Clemencia. He is a good friend to me. I well know Mrs Irene Sarah who is married to Hector (deceased). They both live in the same locality as I do. The said Irene Sarah has many sons, one of whom is called James Hector (decdt) . Irene lives opposite to Popol Mertille's house. On Sunday the 2nd day of December 1979 at about 11 or 11.30 a.m. I was at the rear of my house when my brother Frederick called me and told me that Popol needed me. Thereupon I came in front of my house . I met Popol Mertil and he asked me to take a bottle of water. He had a bicycle with him at that time and he asked me to come with him. I took an empty "7 UL " litre from my place, filled it with water and I came near him on the street, in front of my house and he asked me to get on the bicycle and to come with me. "I shall send you to Camp de Masque". Thereupon we both got on the bicycle, riding both at a time. I was on the frame and he was on the seat pedalling. We took the Tamil Temple Road, we crossed the main road near Dorali's house and we went on towards the estate road. We reached an incline. We alighted and walked. On the estate road itself he gave me the bicycle to hold and he went inside a cane field. I saw him remove a gunny bag from underneath cane straws. The gunny bag seemed to contain something of about 3 1/2 feet long and about four inches wide and at the bottom, it appeared to be 7 inches wide. I did not see exactly what there was inside. Afterwards we went on afoot along the road leading towards Camp de Masque. The bicycle was always with me and the gunny bag with him. There he told me:-

"I will gather some mangoes, I will give them to you to go and leave at a relative's place at Camp de Masque."

Thereupon he asked me to take the bicycle and ride and to come and meet him near road etc and he entered a sugar-cane field lane near Petit Montagne.

Thereupon I took the bicycle and came near Pond Sec after a pineapple plantation. He came out of that lane.- At this stage, he corrects himself and says - When I took the bicycle and when I arrived near the pineapple plantation before Pond Sec near Petit Montagne itself, he came out of that lane. Thereupon he told me:-

"Take the bicycle, leave it in the canefield, come with me, I will gather mangoes, I'll give them to you and I will cut two bundles of wood. You will leave the mangoes at a relative's place for me at Camp de Masque, then you come back, we shall take the wood and go away."

I leaned the bicycle in the canefield and he asked me to follow him. The gunny bag he had removed from the cane field was with him. I followed him and we climbed Petit Montagne, Clemencia close to a pine apple plantation. Before the end of the pineapple plantation on the right hand side in the woods, he asked me to enter that woods and I went along with him. On reaching a spot he lifted some leaves and I saw the body of a lady clothed in a gown with flower designs the colour of which I have forgotten. The body was lying in a supine position and the face was turned on a side. I have forgotten if it was to the left or right side. Thereupon I looked attentively and I saw that it was the body of Irene who is the mother of James Hector. Thereupon Popol Mertil asked me to give him a hand to place the body in the gunny bag which was in his possession. He emptied the gunny bag; there was an axe and a sabre inside. He placed them on the ground. I told him that I will not do that, I shall return and go back home. Thereupon he told me:-

"If you go home, you also will lose your life in the same way."

I asked him why he had done that. He told me "because she had caused me too much harm". Thereupon I was shocked and I was trying to return home. Thereupon he lifted the sabre and told me to hold the gunny bag, I will thrust the body inside. I got afraid. I held the gunny bag and he thrust the body inside it. He put the head first and the feet remained outside. Thereupon he told me to lift the gunny bag and placed on his shoulders. I lifted and he also lifted and I placed it on his shoulders. Before we lifted the body he placed his sabre and his axe upright near a tree and as soon as the gunny bag was placed on his shoulders, he took his sabre and axe in one hand and he took everything and started to climb uphill.

Thereupon I left him and went very quickly downhill. I took the bicycle which I had kept in the cane field. I rode and came near the Tamil Temple at Clemencia and I left the bicycle near the Tamil Temple and I went home. The litre of water I had brought I left it where the body was lifted. On the same day at about 1.30 p.m. I was in my yard. Popol Bertil brought back the litre to me. It was still <sup>half</sup> full of water. I took it and kept it outside in my own yard. When he returned the litre to me I saw that his bicycle which I had left near the Tamil Temple was in his possession and there was a small bundle of wood on the luggage-carrier. He just gave me back my litre and he did not tell me anything. The sabre and the axe and the gunny bag, I did not notice them with him. While I was lifting the body to place on his shoulders he had told me:-

"Do not tell that to anybody. You keep it as a secret"

This day, wednesday the 5th of December 1979 at about 9 a.m. it has come to my knowledge that the Police has arrested Popol Bertil. Thereupon I had related what had happened to my relatives i.e. my elder brothers Frederick and my mother. At about 2 p.m. myself, my wife and my elder sister named Solange, we went to see the attendant who works in the Tamil Temple at Clemencia and I related to him approximately that had happened and I asked to see if Popol Bertil had disclosed the secret which he had asked me to keep. The priest said a short prayer and asked me to go away and I went home. When I saw Irene's body in the woods before it being placed in the gunny bag, it bore no injuries but blood was coming out of its mouth. If the body has been burned after I know nothing about it. Near the body before it being placed in the gunny bag, there was a vacoas bag without a cover and it had a pink pull over on top. I did not look to see what else there was in the bag. When Popol Bertil took the body on his shoulder he asked me to take the bag and place it on the road near the pineapple plantation, later he would collect it. And I took it and I left it on the road. When Popol called for me at my place he wore a Keki short and a long-sleeved shirt either blue or green in colour and a pair of sponge sandals.

(Sd) Francois Brulecoeur

The above statement has been read over by me to Francois Brulecoeur who acknowledges it to be true and correctly recorded. (Name of person making statement)

(Sd) H. Jhaumeer  
DI



Signature of recording officer

Signature of maker: (Sd) Francois Brulecoeur

Signature of witnesses: (Sd) Illegible

H. JHAUMEER

Name and rank of Recording Officer DI

Place, Date and Time: At 2300 hours at Moka CID Office on 5.12.79



STATEMENT: FRANCOIS BRULE COEUR alias Seid

Occupation: Stone mason

Aged 22 years

Residing at Clementia, Temple Road.

Religion: R.C.

On 6.12.79 at 16.40 hours I saw the abovenamed at Clemencia and who stated to me the following in creole. (Sd.) M Jhaumeer  
D.I.

When at first Popol pushed aside the leaves, I saw Irene's body. Irene was already dead. I forgot to say the time at which I gave Popol a hand to place the gunny bag and the body on his shoulders. he asked me to follow him and I took the bag and I was walking behind him on the mountain. After he had gone a short distance he put down the gunny bag and he had a short rest and I lifted the gunny bag again and placed it on his shoulders and he asked me to follow him. I took the bag and started to follow him and after he had gone a short distance I put down the bag on the road itself near an eucalyptus tree and I went down very quickly. I returned with the bicycle. This day Thursday the 6th. December at about 3.30 or 4.00 P.M. I have brought the C.I.D. (C.I. Madoorapen and D.I. Jhameer and P.S. Basset P.C. Ayacanou Polbe Photographer and P.C. Appalsamy Police Draughtsman and others) on my own free will at Clemencia and I have indicated the estate road along which I and Popol Mertil Mertil went on Sunday the 2nd. December 1979 and I indicated the spot in the cane field where Popol removed a gunny bag. I indicated the spot where Popol took the road near the mountain and when I myself took the main road to meet him farther. I indicated the spot where we met and I showed the spot in the cane field where I went to keep the bicycle and then the mountain lane up which we went together to go on the mountain in the whereabouts of the pineapple plantation. I also indicated the spot where I saw Irene's body for the first time and near that spot I have seen an old pair of blue sponge sandals to-day and I have also seen near that spot that leaves have been burnt on that Sunday I did not see that. I have indicated the spot where Popol kept the axe and the sabre before the body was placed in the gunny bag and from where he took them afterwards. I have shown the spot where Popol put down the gunny bag with the body to rest awhile and where I gave him again a hand to put it again on his shoulders and I have also shown the spot where I left the bag and returned home. The police has taken notes, measurements and photographs in my presence as I have explained. I am satisfied after I have brought the police to my place to hand over the '7 Up' litre. but unluckily I have seen that it had been broken and I have learnt that it was broken accidentally by my brother Federico.

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The above statement has been read over by me to F Brulecoeur  
(Name of person making statement)  
who acknowledges it to be true and correctly recorded.


(S) M Jhaumeer D.I.  
Signature of Recording Officer  
Signature of Maker: (Sd.) Francois Brulecoeur

M Jhaumeer D.I.  
Name & Rank of Recording Officer  
(in block letters)

Signature of witnesses (Sd.) B Sewgobin  
P.S. 1568

Place, Date and Time: at Clemencia on 6.12.? at 17.00 hrs.

No. 553092

"P" 

Flacq CID STATION

STATEMENT FRANCOIS BRULECOEUR alias Seid

Occupation Mason

Aged: 22 years

Residing at Clemencia

Religion: Roman Catholic

On 14.1.80 at 11.00 hours I saw the abovenamed at Flacq CID office and who stated the following in creole.

(Sd) J.Jhaumeer DI

On Monday the 22nd January 1979, the Village Council elections were held and I stood as candidate and I was elected fourth and I am still sitting as elected member in the village council for my locality Clemencia.

The above statement has been read over by me to F.Brulecoeur who acknowledges it to be true and correctly recorded. (Name of person making statement)

(Sd) J.Jhaumeer

Signature of Recording Officer

Signature of Maker: (Sd) Francois Brulecoeur


Signature of witnesses: (Sd) FS 1568 Sewgobind

(Sd) J.Jhaumeer III

Name and rank of recording Officer

Place, Date and Time: At Flacq CID Office on 14.1.80 at 11.10 hours

C/C.I.D. STATION



STATEMENT ; FRANCOIS BRULE COEUR alias SEID

Occupation: Stone mason

Age:22 years

Residing at: Clementia

Religion:R.C.

On 13.12.79 at 12.00 hrs,I saw abovenamed at Flacq C.I.D. and he stated to me the following in presence of Det. Chief Inspector Madoorapen.

(S) Basset.

I said in my statement that Popol Mirthil had drawn out a sabre and an axe from the gunny bag which he had gone to remove from underneath cane straws. That sabre is of my arm's length its handle is black and its blade is of the same colour as the said handle, and on that blade there are one or two scratches. The axe itself has a wooden handle which is longer than the said sabre, the blade of the axe is about three quarters of a foot in length - The police is presently showing me an axe and a sabre, I can identify this axe by its wooden quoin and the grooves on its handle, I am positive that this is the very axe which was with Popol on that day This sabre is like the one which Popol had with him on that day, but I am not hundred per cent sure whether this was the very sabre which was with him.

(Sd.) Francois Brulecoeur

The above statement has been read over by me to F. Brule Coeur

(Name of person making statement)

who acknowledges it to be true and correctly recorded.

(S)Basset

Signature of recording officer

Signature of maker: Francois Brulecoeur

P.S. 545 BASSET

Name &amp; Rank of Recording Officer

(in block letters)

Signature ou Witnesses ( Madoorapen

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Place, Date and Time: Flacq C.I.D. on 13.12.79 at 12.10 H.

STATEMENT of Mr. Frederick Brulecoeur  
 Occupation: Foreman of D.W.C. Aged 30 yrs.  
 Residing at Clementia Temple Road

Religion: R.C.

*Rid*

On 6.12.79 at 17.08 hrs I saw abovenamed at his place at Clementia and he voluntarily stated the following to me in creole.

(Sd.) Renghen P.C.164

Francois Brulecoeur, who is also known as Seid, is my brother. He lives with me.

On Sunday 2.12.79 at about half past eleven in the morning, I was in my front yard I saw Popol Herthille who is well known to me who lives at Clementia itself coming along and he asked me where my brother Seid was. At that time my brother Seid was in the back yard. Thereupon I shouted for Seid and Seid came went to talk to Popol I do not know what they talked about. Afterwards I saw Seid taking a '7 Up' litre full of water. Popol had a bicycle with him. Then I saw Popol and Seid walking in the direction of the Tamil Temple. I do not know where they went. Yesterday Wednesday 5.12.79 at about half past five in the afternoon I was at home my brother Seid told me that Popol had fooled him last Sunday had taken him on 'Ptit Montagne Clementia' and there he saw that Irene was already dead. Her body was on the mountain itself. Popol had threatened him there and he gave a hand to Popol out of fear in placing the body of Irene into the gunny bag I was crossed with him for not having narrated this to me before. and as it was already late I told Seid that the following morning we would state this to the police. He agreed with me. At night I was not at home I learnt that at night itself the C.I.D. had called at my place taken Seid and had gone away. Today Thursday 6.12.79 at about half past three in the afternoon, whilst I was cutting a branch from a Jack fruit tree, that branch fell on a '7 Up' litre which was under the tree and the said litre was broken.

The above statement has been read over by me to Mr. Frederick Brulecoeur  
 (Name of person making statement)  
 who acknowledges it to be true and correctly recorded.

Signature of Maker: (S) Frederick Brule-Coeur

(S) Renghen P.C.164

Signature of Recording Officer

RENGHEN P.C. 164

Signature of Witness: (S) G W Daiyan  
 P.C. 1769

Name & Rank of Recording Officer  
 (in block letters)

Place, Date and Time: at his place at Clemencia on 6.12.79 at 17.20 hrs.

C/C I D Station

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STATEMENT Mr. Jeewan Dvarka

Occupation Planter Age 20 years

Residing at Clémencia Religion Hindu

States on 13.12.79 at 13.20 hrs at Clémencia. <sup>(sd)</sup> D S 545 Basset.

I was born and grew up at Clémencia. Since childhood, I know Popol Mirthil, who works as Caterpillar driver at F U E L, and who lives at Clémencia itself. I have already visited him (several times) and also taken meals at his place. I also know Seid (François Brule Coeur) who is a friend of mine, ~~and~~ a member of Clémencia Village Coucil. On Sunday 2.12.79, I went to sell vegetables at Flacq market. I returned to Clémencia village at about noon, I was sitting down at the cross-roads under a banian tree close to my house, and the children were playing (foot)ball at the cross-roads. I saw Seid and Popol coming with a bicycle. They stopped at the cross-roads, Popol sat down with his bicycle near the banian tree, and I saw Popol giving money to Seid to go and buy cigarettes. A few minutes later Seid came (back), and both Seid and Popol left with the bicycle along Jawa-heer road which leads towards the estate. At that time Popol was wearing a khaki short and a bluish shirt - Seid was wearing a grey cardigan and a pair of blue trousers (long). In. J.D.

The above statement has been read over by me to J. Dvarka who acknowledges it to be true and correctly recorded.

Sd. P.S. 545 Basset

Sd. J. Dvarka

Recording Officer

Inker

Sd. Madoorajen

Clémencia, 13/13/79 at 13.30 hrs

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Statement Cecile Hector (F)

Occupation Labourer at F U E L

Age 30 yrs

Residing at Clémencia - Ti Montagne Road

Religion R C

On 7.12.79 at 11.00 hrs, I saw the abovenamed at C C I D, and she stated to me the following in presence of Det. Chief Inspector Maddorapen . Sd. D S 545 Basset

Irène Julie Sarah, whom we call <sup>Irène</sup> ~~Irène~~, was my mother. My father is named Régis Hector.

At the age of 19, I married Michel Philöe and went to live at Nouvelle Découverte. Three months after my marriage one Popol Mirthil, who grew up with me since childhood at Clémencia, came to make approaches to me at Nouvelle Découverte, she courted me, and I left my husband's place, I eloped with him. He brought me to live here and there. I stayed with him may be for one year. While I was staying with Popol, I became pregnant, and during my pregnancy, I endured hardship with him, and I decide to return to my mother's place. When the child was born I declared him myself <sup>and</sup> / named him Christian Hector. When Christian was two years old, Michel Philöe, my ex-husband came to terms with me, and we went to live together in the vicinity of Curepipe. I stayed for about three months with Michel and I became pregnant, and as Michel had lost his job, I was compelled to return to my mother's place at Clémencia. After the birth of the second child, I declared her myself, named her Christiane Hector, and I took the decision <sup>not</sup> ~~to~~ to return with Michel. I remained at my mother's place, and I took a job at F U E L. At that time, Popol Mirthil, was living at Clémencia Camp; and often he came to look for me at my mother's place, he proposed to me to come back to live with him as his mistress again, I rejected his proposal, being given that he was again living in concubinage. Three years ago, I built a small house for me in Clémencia, in Ti Montagne road, and went to live in it with my <sup>two</sup> / children. A few times, at night, Popol came to knock at my door for me to receive him, but I have never received him, and opened the door. The last time he came to knock at my door could be one year ago. May be six or seven months ago, Popol Mirthil came to live at the place of his father-in-law, who lives opposite my mother's house. My mother

/ and Popol .....

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and Popol Mirthil were not on good terms. Very often Popol insulted her. Two months ago, I was with my mother, on the roadside, near her house, we were talking, I was asking about her health before going to work and Popol went by, he insulted my mother he said "You are a witch, you are a whore, you must be killed" By witch I understand a person who indulges in withcraft. Popol also said to my mother in my presence, on that day, "Sooner or later we will settle matters between us, we must meet both of us, will kill you." I answered Popol and told him "If you think you are tough, see what you can do to her, my mother is weak." Before leaving my mother to attend work, I, asked my mother to go and give a declaration at Bel Air Police Station, but I do not know if she went. Last Saturday the 1st of December, 1979, I went to my mother's place in the day-time, I brought a bundle of fodder for her animals, I talked to her, and I left/with her clothes I wore for work ~~washed~~ to be washed. On Monday morning the 3.12.79 as usual, I called to see my mother before going to work, mother was not in, I learned that since the eve she had gone to Camp de Masque to her sister's place, and she had not yet returned. On Monday, in the day-time, I went to look (enquire) at relatives' places at Camp de Masque, and I learned that my mother had never reached Camp de Masque. My brother James went to give a declaration at Bel Air Police Station. On Tuesday the 4.12.79 many persons of the locality gave a hand to my brothers to make searches, and these persons found the burnt dead body of my mother on Ti Montagne at Clémencia. (R T P of deponent)

The above statement has been read over by me to C. Hector who acknowledges it to be true and correctly recorded.

Sd. D.S. 545 Basset

Redording Officer

R T P of maker

Sd. Madoorapen

Witness

C/ C I D on 7/12/79 at



" V, "

<u>Sheet No.</u>	<u>Line</u>	
611101	6th	tubers
611104	4th	sugar canes being shaken
597965	10th to	
	12th	"I won't give any statement in this matter"
597968	12th to	
	13th	"I will not give any statement"

" 21 "

C/Flacq C I D STATION

STATEMENT Mr. KHEMRAJ MOTEE alias Dhiraj

Occupation Taxi Driver

Aged: 27 years

Residing at Clemencia ,near Sivala

Religion: Hindu

On Friday 11th of January 1980 at 09.05 hours I met the abovenamed at Central Flacq C I D Office and he stated the following to me in creole.

Taxi Car No. AJ203 belongs to me. I myself work as driver imit. I am used to carrying passengers from Clemencia to Bel-Air or Flacq. On Sunday the 2nd December 1979 I was myself working in my car. I well know Popol MYRTYLE who works as caterpillar driver at F U E L and who resides at Clemencia. Neither did Popol Myrtyle (accused) travel in my car on Sunday the 2nd December, 1979, nor did I meet him on that day.

The above statement has been read over by me to .... Deponent..... who acknowledge it to be true and correctly recorded.

(sd) B Sewgobind P.S1568

Signature of Maker: (sd) K Motee

Signature of Recording Officer.

Signature of witnesses: (sd) M S Jhameer D.I

BARDWAR SEWGOBIND PS 1568

Name and Rank of Recording Officer

(in block letters)

Place, Date and Time: at C/Flacq C I D Office on 11.1.80 at 09.10 hrs.

IN THE PRIVY COUNCIL

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O N - A P P E A L

FROM THE COURT OF APPEAL OF MAURITIUS

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B E T W E E N :

LOUIS LEOPOLD MYRTILE

Appellant

and

THE QUEEN

Respondent

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ANNEXURE 1

STATEMENTS OF WITNESSES CALLED

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CHARLES RUSSELL & CO.  
Hale Court  
Lincoln's Inn  
London WC2A 3UL

Solicitors for the Respondent