SL. No.	CAUSE TITLE	SECTIONS	REASON WHY THE STATE SHOULD HAVE FILED CRIMINAL APPEAL
1.	ST Case No. 08/2009/12/2009, (GR Case No. 408/2008 Corresponding P.S. Case No. 85/2008) **State** Versus **Pradeep Kumar & Others**	Section-147/148/452/427/323/324/302 read with Sec-149 of Indian Penal Code.	1. The brief fact of the case is that the rioters being in a mob armed with deadly weapon such as Thenga, Kati, Tenta shouting slogan entered into the village, ransacked the houses belonged to Christian community. All members of Christian Community left the houses in fear of their lives. Deceased Gayadhar was also running away towards village Kasinipadar along with his wife and son. So also his elder brother Kalpa Digal but to his misfortune he confronted with the rioters while he was at village Uhadurga wherein the accused persons namely Pradeep Kanhar and Netrananda Kanhar along with others attempted to take away the life of all of them. However the brother of the deceased namely Kalpa managed to escape from their clutches but the deceased was trapped and was assaulted by means of Knife and Lathi (Medha) to which he succumbed on the spot. The said accused persons also assaulted the wife of the deceased and his son causing bleeding injuries. During the course of the investigation, the police examined the complainant, visited the spot, prepared the spot map, held inquest over the dead body of deceased Gayadhar Digal, prepared Inquest report, seized the blood stained earth as well as sample earth, seized other incriminating articles, sent the injured Rimati and Lambodar @ Baishanaba for medical examination and sent the dead body of the deceased for post mortem, obtained the injury as well as the post mortem report. After completion of investigation the police submitted charge-sheet against the accused-persons having kept open the investigation with the permission of the competent Court.

			2. The prosecution has well established, his case beyond all reasonable doubt, but the learned Adho Addl. Sessions Judge F.T.C.(II), Kandhamal, Phulbani vide his Judgment dated. 25.7.2009 in a whimsical manner acquitted the accused persons from the charges leveled against them without applying his judicial mind. 3. The evidence adduced by the Prosecution Witnesses proves beyond doubt that the accused persons are guilty of riot and murder. More particularly P.W. -9 in his statement clearly stated that diseased was attacked by Vima Kanhar by means of Kati on his head and stabbed him on his belly. And Narendra Kanhar was assaulted him by means of an Iron rod. But learned session judge without considering the evidence of P.W.-9 acquitted the accused persons in a mechanical manner. 4. That apart P.W.-9 as well as his mother (P.W.-7) sustained bleeding injury who were present on the spot on the time of occurrence and both are eye witnesses of the incident. There evidence was not demolished by the Defense but learned session judge disbelieved the statement of both the eye witnesses without giving any reasonable cause and acquitted the accused persons. 5. Further P.W. -9 identified the accused persons present in the dock and categorically disclosed their names. But learned session judge without appreciating and considering the said evidence acquitted the accused persons in a casual manner. 6. Most of the witnesses declared as hostiles, gained over by the accused persons. PW-7 & 9 categorically stated that the accused persons have assaulted the deceased as well as Raimati Digal & Baishanab@ Lambodar Digal . The said piece of evidence was narrated by the learned session judge in Para no. *12, 14 & 15, 17* **.** But in a whimsical manner

			Learned Session Judge acquitted the accused persons without considering this vital piece of evidence . 1. The evidence of P.W.-10, who conducted the postmortem of the diseased, clearly stated in his cross examination that "If a person so motto falls over a hard surface cannot cause the injury as dictated on the brain of the diseased". Hence the evidence of P.W.-10 is important and supportive piece material in favour of prosecution case of murder. But learned session judge by ignoring the statement of Doctor who conducted the postmortem acquitted the accused persons on the ground that , the prosecution failed to prove their case without any reasonable grounds. **This is a fit case where the state should have filed Criminal Appeal in the interest of justice before the High Court, because the prosecution has clearly established its case with evidence, satisfying all the ingredients of the offence against the accused persons. But for the reason best known to state, no attempt was initiated for filing Criminal Appeal by the State in spite of sufficient material available with the state leading to miscarriage of justice.**
2.	ST Case No. 64/20/2009, (GR Case No. 304/2008 Corresponding	Section-147,148, 436/149, 435/149, 380/149 and 302/149 of Indian	1. The brief fact of the case is that on the date of occurrence the riot, the accused persons being perpetrates of the riot entered inside the village by giving various slogans. By hearing the same the informant came outside and saw several persons, being armed with various dangerous and deadly weapons like stick, axe, rifle etc. By seeing the mob due to fear the informant along with his family members escaped from the house to save their lives. But his

	P.S. Case No. 136/2008) **State** Versus **Tidinja Pradhan & Others**	Penal Code.	mother-in-Law, the deceased, was unable to come out side. The accused persons killed her and carried her dead body inside his house. The informant witnessed at some distance that the mob set fire to his house including house of his brother. 2. The prosecution has well established, his case beyond all reasonable doubt, but the learned Adhoc Addl. Sessions Judge F.T.C.-I, Kandhamal, Phulbani vide his Judgment dated. 29.10.2009 in a whimsical manner acquitted the accused persons from the charges without appreciating the evidence in a capricious manner. The learned Session Judge have failed to appreciate the vital piece of evidence of PW – 4, 6 to 8. 3. In Para 7 of the said Judgment, the learned session Judge stated in its finding that the PW 4, 6, 7 and 8 deposed that the mob set fire to the house of Christian persons including the house of Iswar Digal as a result of which his mother-in-law was burnt alive. All of them deposed that the present accused persons were present at the place of occurrence. And in the evidence of the PW-2 in Para 5 he was stated that all the ten accused persons standing inside the dock were part of the mob at the time of commission of the above acts. 4. Para 13 of said judgment - Informant in his FIR specifically stated the names of six persons who were the members of unlawful assembly. At paragraph 5 of his examination-in-chief he described the names of the above six persons whom he could identify at the spot. 5. That the learned Session Judge disbelieved the FIR because of the informant didn’t explain

			delay in lodging FIR. But during cross examination of the informant he was stated "I tried to lodge the FIR after arrival at the relief camp but they were not allowing me to go outside to lodge FIR at Tikabali P.S. 6. The evidence adduced by the Prosecution Witnesses proves beyond doubt that the accused persons are guilty of murder. More particularly P.W: 4, 6, 7 and 8 in their statement clearly stated that diseased was assaulted by the accused persons which has resulted his death. But learned session judge without considering the evidence of Prosecution Witnesses acquitted the accused persons in a mechanical manner which is bad in law. **This is a fit case where the state should have filed Criminal Appeal in the interest of justice before the High Court, because the prosecution has clearly established its case with evidence, satisfying all the ingredients of the offence against the accused persons. But for the reason best known to state, no attempt was initiated for filing Criminal Appeal by the State in spite of sufficient material available with the state leading to miscarriage of justice.**
3.	S.T. case No. 17/09/43/09 S.T. case	u/s. 147, 148, 455,436, 302m 201/149 of I.P.C	1. Brief fact of the case is that, Sankirtan Naik, Gram Rakhi, Lodged one F.I.R. before the O.I.C. Raikia P.S. alleging that on 26.8.2008 at about 10A.M. in the morning hour the accused persons came to the house of the informant being armed with the different deadly weapons and forcibly entered into her house and dragged her husband and mother-in-law to the

	No. 17/09/43/09		backside of the house and poured kerosene and light the match stick for which they completely burnt and died. Though the informant tried to rescue them, but the accused persons assaulted her and attempt was made to put her in to fire, but she could manage to get-rid from their clutches. Basing on the said information the O.I.C. Raikia P.S. registered a case for the commission of the alleged offences u/s. 147, 148, 455,436, 302m 201/149 of I.P.C. and proceeded with the investigation. 2. The learned trial court has committed material illegality and has improperly exercised his jurisdiction by mis-reading and over-looking the material part of the prosecution evidences and therefore there has been a glaring miscarriage of justice by the impugned order of acquittal. 3. Even though the P.W.1 clearly stated that the accused persons were armed with deadly weapons and forcibly dragged her husband to the outside of his house and naked him and poured kerosene and put him in fire and subsequently they have poured kerosene to her mother-in-law, who is a paralysis patient and she was in her bed. But the learned trial court without considering the evidence of the P.W.-1 in a whimsical manner passed the order of acquittal. 4. The learned trial court has committed illegality by not appreciating the evidence of the prosecution witnesses in proper prospective and utterly failed in separating the grains from the cats for which the learned trial court erroneously entertained doubt regarding the veracity

			of the evidence of P.W.1 who non but the material witnesses. Thus such finding of the learned trial court in support of an order of acquittal is highly unreasonable on facts and in the eye of law and as such the impugned order of acquittal is liable to be set-aside. **This is a fit case where the state should have filed Criminal Appeal in the interest of justice before the High Court, because the prosecution has clearly established its case with evidence, satisfying all the ingredients of the offence against the accused persons. But for the reason best known to state, no attempt was initiated for filing Criminal Appeal by the State in spite of sufficient material available with the state leading to miscarriage of justice.**
4.	S.T. Case No. 70 / 23 of 2009	U/s. 147/148/341/364/379/427/302/436/201 of 149 IPC	1. On 24.09.2008 Kantheswar the brother of deceased was coming from Sankarkhol to Phulbani in a bus. On the way near Adabadi the bus was stopped by the mob consist of the accused persons and others. Kantheswar was near the gate of the bus. The mob by seeing him dragged him out of the bus and took him away. After about 14 days of the above occurrence a dead body was found in the river at Village – Majhipada. The same was indentified of the deceased Kantheswar. After completion of the investigation charge sheet was field against 11 accused persons. 2. The Trial Court has committed grave illegality in discarding the ocular testimony of P.W.2 and 5. The evidence of both- the witnesses not only are reliable and trustworthy but also the same have remained unshaken till the cross-examination. 3. The Trial Court has been swayed away with the allegation that "there was delay in

			examination of the witness". On this ground the testimony of the witness cannot be brushed aside. The investigating officer has examined the person and to have knowledge about the alleged occurrence. Merely because the investigating officer could not examine early the witness cannot be found fault with or his evidence cannot be held to the unreliable on that ground. 4. The Trial Court has gone wrong in disbelieving P.W.-5 on the flimsy ground that the witness could not say about the place of resident of the accused Manoj. The prosecution witness has categorically deposed that the accused Manoj was present in the mob, There is absolutely no material to harbour any kind of doubt regarding identification of the accused by the witness. Admittedly the accused Manoj is a public figure in the locality therefore his identification by the witness was natural. 5. The Trial Court has resorted to sheer conjecture to arrive at the conclusion that P.W.-5 spelling out the name of accused Manoj before the police was not obviously out of her own knowledge. There is no material whatsoever to support this finding. On the contrary the witness has categorically denied the suggestion that she saw the accused for the first time on the day of occurrence. 6. The witness P.W.-5 has correctly identified the accused Manoj Pradhan in the Court. This circumstance itself lends sufficient corroboration to her testimony that she had correctly identified him in the mob. The learned Trial Court has lost sight of this fact and erroneously concluded the identification as inconclusive. 7. The deceased was dragged from the bus in the night of 24.09.2008 by the mob in which the accused persons were the members. The deceased was not seen thereafter. There is no

			evidence that the deceased was alive thereafter. In such circumstance the only hypothesis which can be deduced that the deceased met his death in the company of the mob. Recovery of dead body after fourteen Days would not in any manner discount the prosecution case. **This is a fit case where the state should have filed Criminal Appeal in the interest of justice before the High Court, because the prosecution has clearly established its case with evidence, satisfying all the ingredients of the offence against the accused persons. But for the reason best known to state, no attempt was initiated for filing Criminal Appeal by the State in spite of sufficient material available with the state leading to miscarriage of justice.**
5.	ST Case No 31/88 of 2009 State of Oriss Vrs. Raneswar Mallick	U/s 147/148/341/294/323/302/395/201 of IPC read with 149	1. The fact of the case is that on 16.12.2008 the informant Bidyadhar Digal along with his father had been to village Sitapanga in their motorcycle On the way in between Telingia and Sitapanga they were obstructed by 20/25 persons who were armed with weapons like Stick (Thenga), Axe (Kuradhi) etc. The said persons uttered obscene abusive language and threatening to kill them. They dealt first blow on the face and head of the informant, snatched away the motorcycle and assaulted his father Yubaraj Digal by Thenga and he fell down. The accused person attempted to take the life of the informant but the informant narrowly escaped. The informant straight came to G.Udayagiri Police Station through the jungle road and narrated the incident to the Police where he also stated that he can identify some out of the mob if he confronted with them. He said that the said persons belonged to Village Telingia and Sitapanga. No sooner the Police got the information rushed to the place of incident being

			accompanied with the informant but failed to get any clue and returned and the informant lodged a written report on the next day i.e., on 17.12.2008 which was registered as P.S. Case No. 400 of 2008 followed by investigation. 2. The prosecution conducted the polygraphy test, which is on record vide Ext.14, and the same has been proved through P.W.9. The Scientific Officer who conducted the polygraphy test was examined and proved to that aspect. However, the Learned Trial Court did not accept the report on technical ground. 3. The chemical examination report (Ext.16) are the half-burnt bone of different size, some half-burnt charcoal etc. the chemical examination result very faint blood stain were attached in Ext.E which was considered insufficiently for further examination. Opinion of Ext.A could not be given as it was burnt totally. However, the Learned Trial Court suo motto assumed that the seized bone is not of any human being and the other seized materials are nothing to do with deceased and discarded the report of chemical examination to link the chain of circumstantial evidence. 4. The Learned Trial Court has came to a conclusion that there is no oral and circumstantial evidence which leads to establish the involvement of the accused persons in the unlawful assembly obstructed the informant and his father. Whereas the PW.6 have gave in his evidence about the involvement of accused persons. This evidence was unshaken and conclusive. The trial court has whimsically discarded the evidence and acquitted the accused

			persons. 5. Yubaraj Digal was killed and set on fire. The accused disclosed the place where he was killed before the Police. At the instance of the accused Police recovered some burning pieces of bones, burnt stones and sacred chain. P.W.9, the I.O. who stated that on 12.01.2009, the accused disclosed the incident in the presence of the Executive Magistrate. As the bone was not sent for the D.N.A. test by the prosecution the Learned Trial Court disbelief this vital aspect and acquitted the accused persons. **This is a fit case where the state should have filed Criminal Appeal in the interest of justice before the High Court, because the prosecution has clearly established its case with evidence, satisfying all the ingredients of the offence against the accused persons. But for the reason best known to state, no attempt was initiated for filing Criminal Appeal by the State in spite of sufficient material available with the state leading to miscarriage of justice.**
6.	ST Case No. 198/75 of 2009, (Arising out of Tikabali PS case No.	Section-147,148, 294/149, 427/149, 436/149, 452/149,	1. The brief fact of the case is that on 24.08.2008 at about 8.30 p.m. while informant was present at his house the present accused along with more than 200 persons came to their village in a group. They were armed with deadly weapons like sword, stick, tangia, pharsa etc. and attacked houses of Christian persons of the village. While the Christian persons tried to flee from the spot, the rioters chased them and shouted to kill them. The accused persons

	89 of dt. 31.08.2008 GR case No. 251/2008) State Versus Susanta Sahu & Others	506/149, 302/149 & 153 of the Indian Penal Code.	seeing the deceased inside home set fire. There after they set fire to the houses of Christian persons at the village including the house of the deceased who was suffering from paralysis. Due to his physical incapability, he was unable to come out side form his house as a result of which he was burnt alive there. 2. The prosecution has well established, his case beyond all reasonable doubt, but the learned Adhoc Addl. Sessions Judge F.T.C.-I, Kandhamal, Phulbani vide his Judgment dated. 29.10.2009 in a whimsical manner acquitted the accused persons from the charges leveled against them without applying his judicial mind in a casual manner. 3. That the PW 1 Kartika Behera deposed during examination-in-chief at Paragraph-2 that on 24th day of August, 2008 at about 8 pm 200 to 300 persons came to his village byu holding weapons like tangia, knife, rifle etc. They set fire to the houses of Christian persons. The deceased Rasananda, who was suffering from paralysis, was burnt alive inside his house. 4. That the PW-10 Nanda Ganda deposed the same incident taken place at their presence in the village. All of the Prosecution Witnesses deposed categorically that the mob caused destruction of the residential houses including the dwelling house of the deceased by setting fire to the same. 5. It is also not disputed by the learned defence counsel during course of trial regarding death of the deceased due to burn inside his house which occurred during rioting. It appears from the

			evidence of investigating officer that when he visited the spot on 31.08.2008 he traced out a skeleton inside the house of deceased which was charred completely. 6. PW 1 Kartika deposed specifically at paragraph 3 of his deposition that he identified the present two accused along with others while committing the above occurrence. During cross examination at Paragraph 8 he stated that he could identify some persons of the mob with the light. **This is a fit case where the state should have filed Criminal Appeal in the interest of justice before the High Court, because the prosecution has clearly established its case with evidence, satisfying all the ingredients of the offence against the accused persons. But for the reason best known to state, no attempt was initiated for filing Criminal Appeal by the State in spite of sufficient material available with the state leading to miscarriage of justice.**