

Present:

Mr. Justice Shahidul Karim
and
Mr. Justice Md. Mostafizur Rahman

Death Reference No.123 of 2017

The State.

..... Petitioner.

-Versus-

Md. Riajul Islam alias Ranju

..... Condemned-Convict.

Mr. Bashir Ahmed, D.A.G with
 Mr. Nirmal Kumar Das, A.A.G. with
 Ms. Syeda Shobnum Mustary, A.A.G with
 Mr. Md. Tariqul Islam (Hira), A.A.G.

..... For the State.

Ms. Hasna Begum, Advocate

.....For the State Defence Lawyer.

Heard on 15-01-2024, 16-01-2024, 17-01-2024, 18-01-2024 and Judgment on 29-02-2024.

ShahidulKarim, J.

This Death Reference under section 374 of the Code of Criminal Procedure (briefly, the Code) has been submitted by the learned Additional Sessions Judge, 2nd Court, Gazipur for confirmation of sentence of death awarded to accused Md. Riajul Islam alias Ranju (absconding). Accused Md. Riajul Islam alias Ranju was put on trial before the Court of Additional Sessions Judge, 2nd Court, Gazipur to answer charge under sections

302/201 of the Penal Code. The learned Additional Sessions Judge found the accused guilty under the aforesaid sections of law and sentenced him to death under section 302 of the Penal Code along with a fine of Tk.10,000/-and also convicted him under section 201 of the Penal Code and sentenced him to suffer rigorous imprisonment for 3(three) years along with a fine of Tk.5000/- with a default clause vide his judgment and order dated 10-09-2017 recorded in Sessions Case No.87 of 2015, arising out of Joydebpur P.S. Case No.67 dated 21-01-2014, corresponding to G.R. No. 67 of 2014, and thereafter, submitted the enter proceedings of the case to this Court for confirmation of the death sentence imposed upon the condemned accused vide his Office Memo No.অতিঃ/জেলাজজ ২য়/আদাঃগাজী-৭৩৯ তারিখঃ ১০/০৯/২০১৭।

No Jail or Criminal Appeal has been filed by the condemned accused as because he went into hiding in the midst of trial of the case.

The prosecution case arose out of an horrendous incident in which an ill-stared woman named Mst. Chaina Begum (27) was done to death by strangulation, and thereafter, her dead body

was cut into 6(six) pieces in order to conceal the evidence of crime.

The prosecution case as projected in the FIR as well as unfurled during trial is that, 10(ten) years prior to the incident, deceased victim Chaina Begum was married off to accused Md. Riajul Islam alias Ranju and during the wed-lock they were blessed with 2(two) daughters named Asha Akhter (4) and Farjana Akhter (2). Accused Ranju was a licentious person as well as a man of bad repute. Since marriage, the accused used to perpetrate torture to the deceased victim both physically and mentally. About 4(four) years back, the accused negotiated 2nd marriage with one Rojina Begum. Deceased victim Chaina Begum went to Dubai in connection with a job and she returned back home after serving there for about 3(three) years. After returning to the country, the deceased victim purchased 2(two) kathas of land with her own earnings. Accused Md. Riajul Islam alias Ranju put pressure upon his deceased wife to transfer the land in his name to which she expressed her reluctance as a result the former held out threat of dire consequences. In the night following 19-01-2014 during the period from 10.00 pm till 3.00 am of 21-01-2014, accused Md. Riajul Islam alias Ranju killed

his wife victim Chaina Begum by throttling at his rented house, and thereafter, cut her dead body into 6(six) pieces and stuffed those in 3(three) bags including a trolley bag in order to conceal the alamsats of the offence. Thereupon, the accused rented another house of the neighbouring area of one Jashim Uddin, whereupon the co-tenants of the said house named Joshna and Shirin Akhter having smelt bad odour of human dead body brought the matter to the notice of the caretaker of the house, Md. Biplob Hossain as well as to the police, whereupon S.I. Akram Hossain from Joydebpur P.S. appeared at the spot and apprehended accused Md. Riajul Islam alias Ranju along with 2(two) plastic bags and a trolley bag which were filled with the dead body of the victim. The relevant S.I. of police also seized some alamsats like the wearing apparels of the victim, the concerned bags where the pieces of dead body were kept and a sharp cutting dao and sent the dead body to morgue for post-mortem examination. Thereafter, being informant, the elder sister of deceased victim, Ferdousi Begum (P.W.1) lodged the FIR which gave rise to Joydebpur P.S. Case No. 67 dated 21-01-2014.

After lodgment of the case, police took up investigation of the same and having found prima facie incriminating materials, submitted police report against the accused under sections 302/201 of the Penal Code.

At the commencement of trial, charge was framed against the accused under sections 302/201 of the Penal Code and the charge so framed was read over and explained to the accused who pleaded not guilty and claimed to be tried as per law.

In order to prove the charge, the prosecution had adduced as many as 8(eight) witnesses out of 27 witnesses cited in the charge sheet who were aptly cross-examined by the defence.

After closure of the prosecution witnesses, the accused could not be examined under section 342 of the Code since after getting enlarged on bail he went into hiding in the midst of trial.

The defence case, that could be gathered from the trend of cross-examination of the prosecution witnesses, is of complete innocence and false implication.

Thereafter, the learned Additional Sessions Judge, upon taking hearing from both sides and on an appraisal of the evidences and materials on record, came to the conclusion that the prosecution had been able to prove the charge brought

against the accused to the core and accordingly convicted and sentenced him thereunder in the manner as mentioned at the outset.

Eventually, the learned Additional Sessions Judge has submitted the entire proceedings of the case for confirmation of the death sentence imposed upon the accused.

Mr. Bashir Ahmed, the learned Deputy Attorney General with Mr. Md. Tariqul Islam (Hira), the learned Assistant Attorney General appearing on behalf of the state and in support of the death reference having placed the FIR, charge sheet, charge, post-mortem examination report of the deceased victim, confession of the accused, evidences of the witnesses, impugned judgment and order of conviction and sentence and other connected materials available in the paper book submits that the prosecution has been able to bring home the charge levelled against the accused by adducing some clinching circumstantial evidences. He submits that since the occurrence took place during the night and that too inside the rented house of the accused, it was not possible on the part of the prosecution to adduce any ocular evidence and for that reason the prosecution had to rely on circumstantial evidences. Moreover, accused Md.

Riajul Islam alias Ranju admitted his guilt in the killing incident of his wife, Chaina Begum by making confessional statement which was duly proved by the concerned Magistrate Abul Hasanat who gave evidence in the court as P.W.4, Mr. Ahmed further added. The learned Deputy Attorney General lastly submits that the learned Additional Sessions Judge, upon a thread-bare discussion of the evidences and materials on record, found the accused guilty of the charge mounted against him and sentenced him thereunder by the impugned judgment and order which, being well founded both in law and facts, does not warrant any interference by this Court. In support of his submission, Mr. Ahmed has placed reliance on the decisions reported in 40 DLR (AD) (1988), 83 and 73 DLR (AD)(2021) 365.

On the flip-side, Ms. Hasna Begum, the learned State Defence Advocate appearing for absconding accused Md. Riajul Islam alias Ranju has assailed the veracity of the impugned judgment and order submitting that the prosecution has miserably failed to prove the charge brought against the accused by adducing some cogent and reliable witnesses. She next submits that there is no eye witness of the occurrence leading to

the incident of murder, rather it has come to light from the confession of the accused that just before the occurrence an altercation broke out between the accused husband and his deceased wife and further that the incident had occurred in the heat of passion and there was no premeditation or preplan on the part of the accused to kill his victim wife. Moreover, as per confession, the accused killed his wife in order to save his soul as because the deceased victim put pressure on his scrotum. She further submits that some important witnesses like the land owners wherein the accused used to reside along with his deceased wife as well as witness Joshna and Shirin including the witnesses of the inquest report were not examined in the case which creates doubt about the veracity of the prosecution story. Ms. Hasna Begum lastly submits that the alleged offence, if proved, would not come under the mischief of section 302 of the Penal Code, rather it will fall under section 302 part II of the Penal Code.

In order to bolster up her submission, Ms. Hasna Begum has referred to the decisions reported in 73 DLR(AD), 91 and 73 DLR (HCD), 190.

Heard the learned Advocates of both sides and perused the impugned judgment and order along with other connected materials available in the paper book and also considered the facts and circumstances of the case exhaustively.

With a view to arriving at a correct decision in the death reference as well as about the rival submissions put forward by the learned Advocates of both the parties, we are now called upon to scrutinize and weigh the relevant evidences available in the paper book along with the surrounding facts and circumstances of the case.

P.W.1 Ferdousi Begum is the informant of the case as well as the elder sister of deceased victim Chaina Begum. In her evidence this witness gives out that accused Md. Riajul Islam alias Ranju is the husband of her younger sister, China Begum. The occurrence took place at the residence of the accused. Her sister had died about 3(three) years and 2(two) months ago. On information, she came to the house of her sister in Gazipur. Thereafter, she saw the dead body of her sister at the hospital. The dead body of her sister was cut into pieces. Later, she filed FIR against the accused. P.W.1 proves the FIR including her

signature appearing thereon as Exhibit Nos.1 & 1/1 respectively and also identifies accused Riajul Islam alias Ranju in the dock.

In reply to cross-examination P.W.1 says that she could not recollect the exact date of the occurrence and at the material time she was also not present at the spot. Deceased victim China Begum is her younger sister. She got information from police station about the death of her sister. She could not know whether the accused is concerned in the incident or not.

In his testimony P.W.2 Md. Bacchu Miah discloses that both the informant and the accused are known to him. The occurrence came to pass in a nearby place of his house. He heard from local people that the accused had killed his wife. The accused was hailed from different area.

In reply to cross-examination P.W.2 states that he heard that the accused had killed his wife, but he could not recollect the exact date thereof. He could not say whether the wife of the accused was killed in an accident or not.

In his evidence P.W.3 Hazi A. Hamid claims that the occurrence took place in their village about 2/3 years ago. He came to learn that the accused killed his wife. The local people

of the concerned area disclosed that the accused killed his wife. The accused was hailed from different area.

In reply to cross-examination P.W.3 says that the informant and the accused did not belong to their (P.W.3) locality. This witness reiterates in his cross-examination that every one of their locality disclosed that the accused killed his wife.

P.W.4 Abul Hasnat is the relevant Magistrate who jotted down the confessional statement of accused Md. Riajul Islam alias Ranju. In his evidence this witness avers that on 22-01-2014, S.I. Akram Hossain produced the accused before him for recording his confessional statement, whereupon he recorded the confessional statement of the accused in compliance with all legal formalities and thereafter, he read it over to the accused who put his signature thereto admitting the contents thereof to be true. P.W.4 proves the confessional statement including his 4(four) signatures appearing thereon as Exhibit Nos.2 & 2/1 to 2/4 respectively.

In reply to cross-examination P.W.4 discloses that he afforded 2.30 hours time to the accused during which he was kept in his (P.W.4) chamber. P.W.4 denied the defence

suggestions that the accused was not in normal position or that he (P.W.4) did not comply with all legal formalities.

P.W.5 Dr. Tapos Kanti Sarker is one of the member of a 3(three) Members Medical Board which, on 21-01-2014, held autopsy of the corpse of deceased victim China Begum, at the identification of Constable No.330 Poresh Chandra Das and found the following injuries:

1. One continuous circular ligature mark around upper neck $\frac{1}{2}$ " breath.

2. One cut throat (lower throat) injury resulting complete separation of neck and head from rest of the body (neck circumference 18" (post mortem injury).

3. Incised wound over both hip joints resulting complete amputation of both thigh from abdomen and pelvis (both sides) (thigh circumference 28") each post mortem injury.

4. Incised wound over both knee joint resulting complete separation of both legs from both thigh (leg circumference 17") each post mortem injury.

On deep dissection: Throat muscles were found congested at the line of ligature mark. Clotted blood present in the injured sites which does not resist washing (post-mortem clot).

According to their opinion, the cause of death of the deceased victim was due to asphyxia resulting from ligature strangulation which was ante-mortem and homicidal in nature.

P.W.5 proves the post-mortem report including his signature appearing thereon as Exhibit Nos.3 & 3/1 respectively.

In reply to cross-examination P.W.5 says that the post-mortem examination was done in the afternoon of 21-10-2014 at around 2.30 pm. This witness denied the defence suggestions that they did not carry out post-mortem examination properly or that the post-mortem examination report is not true.

P.W.6 Jahangir Alam is an inhabitant of the neighbouring area of the place of occurrence building. In his testimony this witness unfurls that the occurrence passed off on 21-01-2014 and the place of occurrence is the house of one Jashim Uddin located at Chandona North Para. The dead body of a woman was recovered from the 2nd floor of the P.O. building which was cut into 6(six) pieces as well as stuffed in a gunny bag. Police then appeared at the spot and held inquest (Exhibit No.4) of the dead body to which he put his signature (Exhibit No.4/1). He came to learn that the husband of the deceased victim cut the dead body

into 6(six) pieces. The accused and the deceased victim were new tenants of the P.O. building.

P.W.6 further states in his evidence that the accused was detained at his rented flat wherefrom police took him away.

In reply to cross-examination P.W.6 says that he did not witness the incident of killing, rather he saw the dead body. He did not know the accused from before.

In his testimony P.W.7 Md. Asaduzzaman divulges that the occurrence took place in the year 2014 at the 2nd floor tenanted flat of one Jashim Uddin. The accused along with his deceased wife rented the P.O. flat. The accused cut his wife into 6(six) pieces and stuffed those in a bag. On information, people appeared there. He (P.W.7) got information at around 1.00 pm in the night and thereafter, he went to the P.O. spot. Local people detained the accused inside the P.O. room. Police then recovered the dead body and held inquest of the same to which he put his signature (4/2). Police, thereafter, took away the accused under custody and sent the dead body to the hospital.

In reply to cross-examination P.W.7 states that he did not witness the incident of killing, rather he saw the dead body. This

witness further states that the accused used to live in the concerned locality as tenant.

P.W.8 Inspector Muhammad A. Rahim is the final investigating officer of the case. In his deposition this witness reveals that during investigation, he visited the place of occurrence and consulted the sketch map (Exhibit No.5) as well as index (Exhibit No.6) thereof prepared by the earlier investigating officer and found them to be correct, examined witnesses under section 161 of the Code and made attempt to arrest the absconding accused. However, having found prima-facie incriminating materials, he submitted police report against the FIR named accused Md. Riajul Islam under sections 302/201 of the Penal Code.

In reply to cross-examination P.W.8 avers that he took the charge of the investigation of the case on 04-09-2014. Thereafter, he recorded statement of 10 (ten) witnesses. The accused and the deceased victim are respectively husband and wife. The accused was found sitting in his rented P.O. flat after killing as well as cutting the dead body of his wife into 6(six) pieces and those were stuffed in a briefcase. P.W.8 denied the

defence suggestion that he did not carry out the investigation properly.

These are all about the evidences that had been adduced by the prosecution in order to bring home the charge levelled against the accused.

Having dwelt upon the evidences and materials on record, it appears that there is no dispute about the unnatural death of deceased victim Chaina Begum (27). Nevertheless, since the matter involves capital punishment in the form of death penalty, we feel it necessary to have a close look at the inquest report in order to see for ourselves what injury or injuries were found on the person of the deceased victim at the initial stage of the case and what was the apparent cause of death.

It is on record that one S.I. of Joydebpur P.S. named Md. Akram Hossain held inquest of the cadaver of deceased victim Chaina Begum vide G.D. No. 1404 dated 21-01-2014 which has been marked as Exhibit No.4. The relevant portion of Exhibit No.4 is quoted below in verbatim:-

“চান্দনা উত্তর পাড়া রওশন সড়ক জসিম উদ্দিনের বাড়ীর তিন তলা তারিখ ২১-০১-১৪ ইং রাত্র ০৩.০০ ঘটিকা। ০৬ টুকরা বস্তা, ব্যাগ ও ট্রলির ভিতর। রক্তমাখা কাপড়দ্বারা পঁচানো বস্তায় ভর্তি ও ট্রলির ভিতরে চেইন দ্বারা আটকানো। যাহা দূর গন্ধ

বাহির হইতেছে। গলা কাটা, কোমড় (রান) কাটা, পা কাটা, (হাঁটু), পা দুইটি ০৪ টুকরা, যাহা হাঁটু হইতে নীচের অংশ, কোমর হইতে হাঁটু পর্যন্ত দেহ ০১ অংশ যাহা ২টি হাত সহ দেহ হইতে মাথা বিচ্ছিন্ন, যাহা গলা কর্তন করা হইয়াছে। প্রত্যেকটি অংশ হইতে রক্ত নির্গত হইয়া দূরগন্ধ হইয়াছে। পায়ের ৪টি টুকরার মধ্যে তিনটি টুকরা সাদা পলিথিন দ্বারা মোড়ানো একটি টুকরা হলুদ পলিথিন দ্বারা মোড়ানো। নাক, কান স্বাভাবিক জিভা সামান্য বাহির। দাতের ২টি পাটি দ্বারা কামড় দেওয়া।”

(Emphasis added)

From the aforesaid narration, it reveals that the dead body of the deceased victim was cut into 6(six) pieces and those were stuffed in bosta (বস্তা), bags and trolley bag and the same were found from the house of one Jashim Uddin located at Chandona North Para Rowsan Sarak.

Regarding cause of death, it has been stated in Exhibit No.4 that:

“পারিবারিক কলহের কারণে গত ইং ১৯/০১/১৪ তারিখ দিবাগত রাত্রি ২২.০০ ঘটিকা হইতে ২১/০১/১৪ তারিখ রাত ০৩.০০ ঘটিকার মধ্যে যে কোন সময় আসামী ভিকটিম কে প্রথমে গলা চাপিয়া শ্বাসরোধ করে হত্যা করতঃ লাশ গুম করার উদ্দেশ্যে লাশের দেহ হইতে মাথা, পা কাটিয়া ০৬ টুকরা করে।”

(Emphasis put).

Thus, on preliminary investigation, it was found that the accused killed the victim by throttling and thereafter cut her dead

body into 6(six) pieces in order to conceal the alamsats of the crime.

Materials on record further go to show that a medical board comprising of 3(three) members was formed to hold post-mortem examination of the corpse of deceased victim Chaina Begum. P.W.5 Dr. Tapon Kanti Sarkar was a member of the Medical Board which, on 21-01-2014, at the identification of Constable No. 330 Poresh Chandra Das, carried out autopsy of the cadaver of deceased victim Chaina Begum and found as many as 4(four) injuries which were noticed earlier.

P.W.5 further states that on deep dissection: throat muscles were found congested at the line of ligature mark and clotted blood was found in the injured sites which does not resist washing.

According to their opinion: Death was due to asphyxia resulting from ligature strangulation which was ante-mortem and homicidal in nature.

P.W.5 proves the post-mortem report and his signature appearing thereon as Exhibit Nos. 3 and 3/1 respectively.

From the medico-legal evidence, it transpires that deceased victim Chaina Begum was done to death due to

asphyxia resulting from ligature strangulation which was ante-mortem and homicidal in nature. We find nothing tangible on record either to deny or to hold a different view with that of the medico-legal evidence furnished by P.W.5 so far the cause of death of the deceased victim is concerned which also comes in agreement with the inquest-report. Even, the defence did not try to dispute the post-mortem report while cross-examining P.W. 5. In such a backdrop, we have no other option but to hold that the prosecution has been able to prove that deceased victim Chaina Begum was brutally murdered by ligature strangulation.

Now, the paramount question that calls for our determination is, who is or are responsible for the murder of deceased victim Chaina Begum.

It is indisputable that there is no eye witnesses of the occurrence leading to the incident of killing of deceased victim Chaina Begum. Since the occurrence took place in the dark of night and that too inside the rented house of accused Md. Riajul Islam alias Ranju, it was not possible on the part of the prosecution to adduce any eye witness of the occurrence as because at the relevant time none was present at the P.O. flat except the accused and his deceased wife including their 2(two)

minor children. In such a posture of things; we are required to have a close look at the facts and surrounding circumstances of the instant case to find out who was the actual assailant of the deceased victim.

Having devoted our anxious consideration to the evidences on record, it manifestly appears that accused Md. Riajul Islam alias Ranju was detained along with 6(six) cut pieces of the dead body of his wife at his rented house as Chandona North Para. The defence did not try to brushed aside or dispute the aforesaid factual event by making cross-examination of the relevant witnesses. We may profitably have a look at the evidences of P.W. 6 and P.W.7 who, in our view, are the 2(two) most vital witnesses to prove the prosecution story.

The exact text of the evidence of P.W.6 Jahangir Alam is quoted below in verbatim:

“ঘটনা ২১/০১/২০১৪ইং তারিখ। চান্দনা উত্তর পাড়া জসীম উদ্দিনের ভাড়াটিয়ার বাসায়। আমার বাড়ী পাশে। একজন মহিলার লাশ গলা কাটা অবস্থায় তিনতলা থেকে উদ্ধার করে। লাশ ০৬ টুকরো, লাশ বস্ত্র এবং ব্যাগের ভিতর রাখা ছিল। পুলিশ ঘটনাস্থলে আসে। পুলিশ লাশের সুরতহাল রিপোর্ট প্রস্তুত করে। আমার স্বাক্ষর নেয়। এই সেই সুরতহাল রিপোর্ট (প্রদর্শনী-৪), স্বাক্ষর(প্রদর্শনী-৪/১) হিসাবে চিহ্নিত হয়। জানতে পারলাম নিহতের স্বামী কোপাইয়া মেরে লাশ ০৬ টুকরো করে রেখেছে। আসামী এবং

নিহত ঐ বাড়ীতে নতুন ভাড়া নেয়। পুলিশ জিজ্ঞাসাবাদ করেছিল। আসামী বাসায় আটকানো ছিল। পুলিশ তাকে ধরে নিয়ে যায়। ”

(Underlings is ours)

On the other hand, in his evidence P.W.7 Md. Asaduzzaman testifies that:

“ঘটনা ২০১৪ইং সনে। ঘটনা জসীমউদ্দিনের ভাড়াটিয়া এর তিন তলা বাসার ভিতর। আসামী এবং তার স্ত্রী নিহত বাসা ভাড়া নিয়ে থাকতো। আসামী তার স্ত্রীকে কোপাইয়া লাশ ০৬ টুকরো করে বস্তুর ভিতর ভরে রাখে। লোকজন জড়ো হয়। রাত ১.০০ টার দিকে খবর পেয়ে যাই। পুলিশ খবর পেয়ে ঘটনাস্থলে আসে। আসামী ঘরের ভিতর ছিল। লোকজন তাকে আটক করে রাখে। পুলিশ লাশ উদ্ধার করে। সুরতহাল রিপোর্ট প্রস্তুত করে। আমার স্বাক্ষর নেয়। এই আমার স্বাক্ষর (প্রদর্শনী-৪/২) হিসাবে চিহ্নিত হইল। পুলিশ আসামীকে ধরে নিয়ে যায়। লাশ হাসপাতাল মর্গে প্রেরন করে।”

(Emphasis put)

From the aforesaid evidences of the witnesses, it palpably appears that accused Md. Riajul Islam alias Ranju took abode at the second floor of the rented house of one Jashim Uddin, wherefrom he was detained along with 6(six) cut pieces of the dead body of his wife, Chaina Begum.

No explanation has come forward from the side of the defence about the cause of death of the deceased victim Chaina Begum though law casts a duty upon the accused to explain as to

how his wife met with her death since at the material time none was present at the P.O. rented house except the accused and his deceased wife. Therefore, it can easily be presumed that it is none but accused Md. Riajul Islam alias Ranju who was responsible for the killing of his wife.

There is another important piece of evidence available on record in order to rope in the accused in the killing incident of his wife regarding which we will ponder over now.

Materials on record further go to show that during investigation, accused Md. Riajul Islam alias Ranju admitted his guilt by making confessional statement under section 164 of the Code which was jotted down by Magistrate P.W.4 Abul Hasanat.

It is by now well settled that an accused can be found guilty and convicted solely banking upon his confession if, on scrutiny, it is found to be true, voluntary and inculpatory in nature.

In this context, we may profitably refer the case of Md. Islam Uddin @ Din Islam Vs. The State reported in 27 BLD (AD) 37 wherein our Appellate Division has observed as under:

“7. It is now the settled principle of Law that judicial confession if it is found to be true and voluntary

can form the sole basis of conviction as against the maker of the same. The High Court Division as noticed earlier found the judicial confession of the condemned prisoner true and voluntary and considering the same, the extra judicial confession and circumstances of the case found the condemned prisoner guilty and accordingly imposed the sentence of death upon him.”

In the case of Aziz vs. State reported in 73 DLR (AD) (2021) 365 it has been observed as under:

“When the voluntary character of the confession and truth are accepted it is safe to rely on it. Indeed a confession, if it is voluntary and true and not made under any inducement or threat or promise, is the most patent piece of evidence against the maker. A confession may form the legal basis of conviction if the court is satisfied that it is true and was voluntarily made.”

Let us now have a peep at the relevant confession (Exhibit No.2) of the accused to find out whether it has satisfied all the aforesaid criterion or not with a searching eye.

The confession of accused Md. Riajul Islam alias Ranju (Exhibit No.2) is cited below in vernacular:

“আমার স্ত্রী চায়না বেগমকে বিয়ে করি গোপনে। প্রায় ৪ বৎসর গোপন থাকে
 বিয়েটি। এরই মধ্যে পরিবারের চাপে আবার দ্বিতীয় বিয়ে করি। দ্বিতীয় স্ত্রীর সাথে এবং
 আমার সাথে সে খারাপ আচরন করত। দুই স্ত্রী দুই বাসায় থাকত। প্রথম স্ত্রী চায়না বেগম
 মোবাইল ফোনে অন্য ব্যক্তির সাথে কথা বলত। জিজ্ঞাসা করলে সে বলত, “তোমার
 জানার দরকার কি?” আমি বুঝতে পারতাম সে পর পুরুষের সাথে অবৈধ সম্পর্কে জড়িয়ে
 পড়েছে। গত ১৯/০১/১৪ইং রবিবার তার বাসায় (বড়বাড়ী, চান্দরা রোড) যাই রাতের
 বেলায়। রাতের বেলায় অফিস থেকে আমি তার বাসায় যাই। খাওয়া দাওয়ার পর রাত
 ৯.৩০ পরে সে আমাকে গালি গালাজ শুরু করে। তখন তার মোবাইল ফোনে কল আসে।
 তখন জিজ্ঞাসা করি, কার কল এসেছে। তখন সে গালাগালি বাড়াইয়া দেয়। তখন তার
 সাথে হাতাহাতি হয়। এক পর্যায়ে সে আমার ডান হাতের কনুইয়ের নিচে কামড় দেয়।
 তখন জোর করে আমার হাত ছোটাই। আবার সে আমার অভকোমের বীচিতে চাপ দিয়ে
 ধরে। তখন আমি নিজে বাঁচার জন্য তার গলার নলিতে একহাতে চাপ দিয়ে ধরি। সে
 আমার অভকোমের নীচে না ছাড়ায় আমার দুই হাত দিয়ে তার গলার নলিতে চাপ দিয়ে
 ধরি। কিছুক্ষন ধরে রাখার পর দেখি সে আমার বীচি ছেড়ে দিচ্ছে তার হাত নরম হয়ে
 গেছে। তখন আমি তার গলা থেকে আমার হাত (ছেড়া)। তখন সে খাটের ওপর পড়ে যায়
 দাড়ানো অবস্থা থেকে। তখন দেখি তার শ্বাস প্রশ্বাস চলছেনা। তখন আমি কি করব বুঝতে
 পারছিলাম না। বাচ্চা দুটি তখন ঘুমায়েছে প্রায় ২ ঘন্টা ধরে চুপ করে বসে থাকি। তারপর
 চিন্তা করি লাশটা এই ভাড়া বাসা থেকে সরাতে হবে। তখন আমি চিন্তা করি এটাকে কেটে
 টুকরো করে লাগেজে করে সরাব এবং তাই করি। টুকরোগুলো লাগেজে ঢুকাইয়া একদিন
 রাখি। এর মধ্যে একটা বাসা খুঁজে ভাড়া নিই। গত ২০/০১/১৪ইং রাত ৯.৩০/১০ দিকে
 নতুন বাসায় যাবতীয় জিনিসপত্র, লাশের লাগেজ নিয়ে আসি। সেখানেই ঐ বাসার

লোকজন সন্দেহ করে আমাকে লাশ সহ আটক করে। আমি তাদের কাছেও ঘটনা খুলে বুলি। পরে পুলিশকে খবর দিলে পুলিশ আমাকে আটক করে।”

(Emphasis added).

From a plain reading of the aforesaid confession, it appears manifestly that the accused admitted that he killed his wife by throttling and thereafter, cut her dead body into pieces and stuffed those into bags. Thereupon, the accused rented another house and shifted those bags along with other furniture from his old rented house to the new abode, wherein the other tenants of the house, on suspicion, detained him along with the dead body to whom he disclosed all the facts, and thereafter, on information, police appeared at the spot and arrested him.

Thus, it appears that the manner of occurrence as well as the place thereof including the method of his arrest as has been disclosed by the accused in his confessional statement comes in agreement with that of the prosecution story in material particulars. In that view of the matter, the confession of the accused can be regarded as voluntary and inculpatory in nature.

From a combined reading of the evidence of P.W.4 including the confession of the accused, it transpires that the relevant Magistrate undertook genuine effort to find out the

truthfulness and voluntary character of the confession and being satisfied about the same, he penned down the confession of the accused, and thereafter, it was read over to the accused who admitted the contents thereof to be true and a correct account of the incident by putting his signature thereto. Eventually, the accused was sent to Gazipur Jail Hajot. The accused, as it appears, did not try to nullify the voluntary as well as truthful character of his confession by making any retraction application even after coming out of the clutches of police.

From the aforesaid discussions, the incriminating circumstances appearing against the accused may be catalogued as under:

- (1) that accused Md. Riajul alias Ranju and deceased victim Mst. China Begum are respectively husband and wife;
- (2) that it is also an admitted fact that at the material time accused Md. Riajul alias Ranju along with his deceased wife China Beghum and 2(two) minor daughters used to reside in a rented house of one Korban Miah wherein according to the confession of accused, he killed his wife by strangulation;

- (3) that after killing his wife accused Riajul alias Ranju cut the dead body of deceased victim China Begum into 6(six) pieces and stuffed those in bags, and thereafter, he took rent in a nearby building of one Jashim Uddin and shifted their along with those bag;
- (4) that the neighbouring tenants of the house of Jashim Uddin having smelt bad odour apprehended accused Md. Riajul alias Ranju out of suspicion and thereafter, it was revealed that the accused killed his wife and chopped her dead body into pieces;
- (5) that on information, police appeared at the P.O. flat and arrested accused Md. Riajul alias Ranju therefrom along with 6(six) cut pieces of his deceased wife China Begum which were kept in bags;
- (6) that as per medico-legal evidence, the death of deceased victim China Begum was caused due to asphyxia as a result of ligature strangulation which was ante-mortem and homicidal in nature, and thereafter, the cadaver of the deceased victim was cut into pieces;
- (7) that accused Md. Riajul alias Ranju by making confession admitted his guilt in the killing incident of

his wife China Begum which was found to be true, voluntary and inculpatory in nature; and (8) that accused Ranju went into hiding after getting enlarged on bail and he is still on the run.

All these incriminating circumstances, in our view, are undoubtedly incompatible with the innocence of the condemned-accused. The circumstances of the instant case do form rosary and there is no missing link between one bead and another bead. The chain of circumstances appearing against the accused is so complete that it does not leave any reasonable doubt for a conclusion consistent with his innocence, and on the other hand, it only points out that within all human probability it is the accused-appellant who is responsible for the killing of his wife, China Begum.

Contention has been raised on behalf of the defence that there is no eye witness of the occurrence leading to the incident of killing of deceased victim China Begum which entertains doubt about the veracity of the prosecution case. It is true that in the instant case the prosecution did not adduce any eye witness leading to the incident of killing of victim China Begum. But, in the facts and circumstances of the instant case, that alone will not

create any dent in the prosecution story inasmuch as there is no hard and fast rule that a criminal case must fail in the absence of any direct evidence. In such circumstances the prosecution had no other option but to rely on circumstantial evidences including the attending and surrounding facts and circumstances of the case. It is often said that circumstantial evidence may be and frequently is more cogent than the evidence of eye witnesses inasmuch as it is not difficult to produce false evidence of eye witnesses, whereas it is extremely difficult to produce circumstantial evidence of a convincing nature and therefore, circumstantial evidence, if convincing, is more cogent than the evidence of eye witnesses.

In the instant case at our hand, it is found from the evidence and materials on record that the occurrence took place during the night time and that too inside the rented house of accused Md. Riajul alias Ranju while none was present there except the accused and victim China Begum including their 2(two) minor daughters and as such, it was not possible on the part of the prosecution to adduce any ocular evidence of the incident. Rather, from the confessional statement of accused Md. Riajul alias Ranju it is found that he himself killed his wife,

China Begum by strangulation as well as throttling and thereafter, cut her dead body into 6(six) pieces and stuffed those in trolley and gunny bags with intent to conceal the evidence of crime. The time, place and manner of occurrence as has been disclosed by the accused in his confessional statement comes in agreement with the prosecution story in material particulars. Moreover, we have already observed that the confessional statement of accused Md. Riajul alias Ranju was found to be true, voluntary and inculpatory in nature. In the aforesaid premises, the argument advanced by the learned defence Advocate appears to be wide of the mark.

Contention has further been pressed into service on behalf of the defence that some important witnesses were not examined in the case which creates doubt about the veracity of the prosecution story. But, in the facts and circumstances of the instant case, we cannot see eye to eye with the aforesaid view expressed by the learned State Defence Advocate inasmuch as section 134 of the Evidence Act postulates that no particular number of witnesses shall in any case be required for the proof of any fact. If believed, conviction may be based on the evidence of a single witness provided that it is full, complete and self-

contained. Furthermore, it is up to the prosecution to determine as to how many witnesses it will examine to prove its case.

In the instant case at our hand, we found from the evidence of P.W. Nos.6 & 7 that accused Md. Riajul alias Ranju was a tenant of one Jashim Uddin, who was arrested from the rented 2nd floor of that building along with 6(six) pieces dead body of his wife and thereafter, he was handed over to the police. Moreover, accused Md. Riajul alias Ranju admitted his guilt in the killing incident of his wife by making judicial confession which was found to be true, voluntary and inculpatory in nature. In such a posture of things; the argument put forward on this count by the learned State Defence Advocate falls to the ground.

Regard being had to the aforesaid discussions and the observations made thereunder, we are of the dispassionate view that the prosecution had been able to bring the charge to the door of the accused to a nicety and the learned Additional Sessions Judge rightly and correctly adjudged the guilt of the accused by the impugned judgment and order which does not warrant any interference by this Court.

Now, we can turn our eyes to the quantum of sentence awarded to the accused.

Accused Md. Riajul Islam alias Ranju brutally killed his young wife Chaina Begum (27), the mother of 2(two) minor female child, and thereafter, inhumanly cut her dead body into 6(six) pieces without showing any sympathy whatsoever. The accused deprived of his 2(two) infants from the love and affection of their mother. Even, the accused did not feel any twinge in his conscience while killing his wife as well as cutting her dead body into pieces. The accused shows utmost cruelty in committing the murder as well as cutting the dead body of his wife into pieces. The offence committed by the accused is heinous as well as shocking in nature. Moreover, the accused absconded in the midst of trial of the case after getting enlarged of bail. Having considered the aggravating and mitigating circumstances, we are of the dispassionate view that death penalty would be the only appropriate punishment for the ruthless husband for killing his wife, Chaina Begum.

Since accused Md. Riajul Islam alias Ranju was found guilty under Section 302 of the Penal Code and he was awarded death penalty thereunder, a separate sentence under section 201 of the Penal Code appears to be uncalled for and unreasonable

and as such, the sentence awarded to the accused under Section 201 of the Penal Code is liable to be set aside.

In the result, the death reference is accepted.

The sentence of death imposed upon accused Md. Riajul Islam alias Ranju is hereby confirmed.

The sentence of 3(three) years imprisonment along with fine with a default clause as has been imposed upon the accused under section 201 of the Penal Code is set aside.

The impugned judgment and order of conviction and sentence is maintained with the aforesaid modification.

Send down the L.C. record along with a copy of the judgment to the Court concerned at once.

Md. Mostafizur Rahman, J.

I agree.