

**District: Rajshahi**

**In the Supreme Court of Bangladesh**

**High Court Division**

**(Criminal Appellate Jurisdiction)**

**Present:**

**Mr. Justice J.B.M. Hassan**

**And**

**Mr. Justice Md. Toufiq Inam**

**Death Reference No.04 of 2018.**

The State.

-Versus-

1. Most. Kulsum Nahar Beauty,

----- Condemned-Prisoner.

2. Md. Ruhul Amin (absconding),

3. Md. Soleman Ali (absconding),

----- Convict- Prisoners.

Mr. M. Masud Rana, D.A.G. with

Mrs. Ayasha Akhter, A.A.G,

Mr. Mir Moniruzzaman, A.A.G, and

Mr. Md. Tareq Rahman, A.A.G.

----- For the State.

Mr. Md. S.M. Shahjahan, Senior Advocate, with

Mr. Muhammad Morshed Alam, Advocate, and

Mr. Md. Sharif Hasan, Advocate.

.....For the Condemned-Prisoner.

Mrs. Bulbul Rabeya Banu, Advocate

--- State-Defence Lawyer for the Convicts (Absconding).

**With**  
**Criminal Appeal No. 887 of 2025.**

(Arising out of Jail Appeal No. 23 of 2018.)

Most. Kulsum Nahar Beauty,

---- Condemned-Prisoner-Appellant.

-Versus-

The State.

..... Respondent.

Mr. Md. S.M. Shahjahan, Senior Advocate, with  
Mr. Muhammad Morshed Alam, Advocate, and  
Mr. Md. Sharif Hasan, Advocate.

.....For the Condemned-Prisoner-Appellant.

Mr. M. Masud Rana, D.A.G. with  
Mrs. Ayasha Akhter, A.A.G,  
Mr. Mir Moniruzzaman, A.A.G, and  
Mr. Md. Tareq Rahman, A.A.G.

----- For the Respondent.

**Heard On: 18.02.2025, 19.02.2025, 24.02.2025, 25.02.2025,**  
**26.02.2025, 04.03.2025, 05.03.2025.**

**And**

**Judgment Delivered On: 10.03.2025.**

**Md. Toufiq Inam, J:**

***Background of the Case:***

Deceased, Mosharraf Hossain Mridha alias Khokon, was brutally murdered on the night of 30.06.2011. His wife, Beauty Khatun (Accused No. 2), was allegedly involved in an extramarital affair with Md. Ruhul Amin (Accused No. 1). Upon discovering the affair, the deceased objected, leading to hostility between him and his wife. On the night in question, Beauty Khatun, along with Ruhul Amin and Soleman (Accused No. 3), allegedly

strangled the deceased, placed his body in a sack, and attempted to conceal it.

***FIR, Investigation and Charges:***

Deceased's brother, Md. Babu Mridha (PW2) lodged an FIR on 01.07.2011 with Pabna Sadar Police Station against all three accused persons under sections 302/34 of the Penal Code alleging that approximately two years ago, a dispute arose between the informant's brother and his sister-in-law (bhabhi), Kulsum Nahar Beauty. As a result, the couple moved out of their home and began living in a rented house elsewhere. Around two months ago, Beauty rented a two-room house belonging to Md. Rasel (PW10) without her husband's knowledge and started living there alone. The informant later learned that an unidentified man used to visit her at the rented house. About a month before the incident, her husband, the deceased Mosarraff Hossain @ Khokon, moved in with her again.

On the night of 30.06.2011, at approximately 11:30 PM, the informant received a phone call informing him that his brother had been murdered at the rented house. He immediately rushed to the scene with witnesses Dablu Mridha (PW4), Touhid Mridha (PW5), Shaju (PW6), Md. Johir (PW3), and Md. Amin. Upon arrival, they found a jute sack with its mouth tied, lying on the floor near the victim's bedroom. Inside, they discovered the dead body of Mosarraff Hossain wrapped in a quilt and bound with nylon rope. When questioned, Kulsum Nahar Beauty confessed that she had been in a long-standing extramarital relationship

with accused Md. Ruhul Amin, which had also turned physical. When Khokon discovered the affair and objected, the accused viewed him as an obstacle and conspired to kill him. On 30.06.2011, accused Md. Ruhul Amin, Most. Kulsum Nahar Beauty, and Md. Soleman Ali strangled Khokon to death. They then placed his body inside the jute sack in an attempt to conceal the crime. Beauty also assisted Ruhul Amin and Soleman Ali in fleeing the scene by opening the door.

Police made an inquest report of the dead body, seized alamots and send the dead body to the morgue for autopsy.

Accused Kulsum Nahar Beauty was found with the dead body in the room and she was later arrested in connection of the case and other two accused persons namely Md. Soleman Hossain and Md. Ruhul Amin were also arrested on 11.10.2011 and 22.11.2011 respectively. All three accused persons made confessional statements to the magistrate, PW11, PW12 and PW14 admitting their guilt.

Police investigated the matter and found the allegation true against all those three accused persons and submitted charge sheet being No. 543 dated 13.12.2011 under sections 302/201/34 of the Penal Code. The court thereafter framed charge against the all three accused persons on 27.03.2012 under section 302/201/34 of the Penal Code, it was read over to them and they pleaded not guilty.

Accused Md. Soleman, who was arrested on 11.10.2011, was granted bail on 03.06.2014 through Criminal Miscellaneous Case No. 21237 of 2014. Accused Md. Ruhul Amin, arrested on 22.11.2011, was granted bail on 16.07.2014 in connection with Criminal Miscellaneous Case No. 25239 of 2014. Accused Kulsum Nahar Beauty was never granted bail. Both Md. Ruhul Amin and Md. Soleman remained absent during the trial and thereafter.

***Trial Proceedings:***

The case was ultimately proceeded to trial, during which the prosecution examined fifteen witnesses, including the informant, neighbors, magistrates, a doctor, and the investigating officer. As only accused Kulsum Nahar Beauty was present, while the other two accused remained absconding, all were represented by their respective lawyers, including a state-appointed defence lawyer. The prosecution witnesses were duly cross-examined by the defence; however, the defence did not present any evidence in support of their case.

From the nature of the cross-examinations and the suggestions put forwarded, it appears that the defence sought to establish that the accused were innocent and not involved in the alleged murder.

After examination of the prosecution witnesses, the accused Kulsum Nahar Beauty was examined in accordance with the provision of Section 342 Cr.P.C. and the incriminating

prosecution evidence and the confessional statement she made to the magistrate were brought to her notice. She pleaded her not guilty.

***Tribunal's Decision & Reference Under Section 374 Cr.P.C.:***

On conclusion of the trial the learned Tribunal by the impugned judgment convicted all the three accused persons under Section 302/34 of the Penal Code and sentenced them to death along with a fine of Tk. 20,000 (twenty thousand) each.

Following the pronouncement of judgment, the Tribunal made a statutory reference to this Court under Section 374 Cr.P.C. for confirmation of the sentence awarded to the accused persons. This reference was registered as Death Reference No. 04 of 2018. Simultaneously, the condemned prisoner, Most. Kulsum Nahar Beauty, filed Jail Appeal No. 23 of 2018, which was subsequently converted into regular Criminal Appeal No. 887 of 2025 by order of this Court.

Mr. S.M. Shahjahan, learned Senior Counsel, appears on behalf of the accused, Kulsum Nahar Beauty, and prays for her acquittal of the charge brought against her. The absconding accused persons, namely (1) Md. Ruhul Amin and (2) Md. Soleman, are being represented by the state-appointed counsel, Ms. Bulbul Rabeya Banu.

Mr. M. Masud Rana, the learned Deputy Attorney General appearing for the State, submits at the outset that there are no

discrepancies regarding the date, time, place, or manner of the incident. Referring to the testimonies of PW2, PW3, PW7, and PW15, who entered the room of the accused and discovered the victim's body, he emphasizes that the body was recovered from Kulsum's house, placed inside a jute sack near a sofa. He adds that the cause of death was asphyxia resulting from strangulation. According to Mr. Rana, this version of events has been corroborated by three separate inculpatory confessions made by the convicts. Relying on the testimonies of the prosecution witnesses and supporting circumstantial evidence, he prays that as the prosecution has proven the case beyond any reasonable doubt against the accused persons, the death penalty awarded to them by the Tribunal should be confirmed.

***Defence Arguments:***

Firstly, Mr. S.M. Shahjahan, the learned senior defence counsel appearing with Mr. Md. Sharif Hassan, draws our attention to the fact that the police registered a General Diary (GD) No. 1228 on 30.06.2011 before lodging the Ejahar/FIR, as revealed from the inquest report, chalan, and post-mortem report. He argues that since the GD entry was made at the earliest point in time, it was in fact the first information report (FIR) regarding the offence within the meaning of Section 154 Cr.P.C., and thus, the FIR lodged subsequently on 02.07.2011 by PW2 is nothing but a statement within the meaning of Section 161 Cr.P.C. He refers to the case of *Muslimuddin v. The State*, reported in 1987 DLR (AD) 1. He further submits that since the investigation began prior to the lodging of the Ejahar, it cannot be treated as the FIR,

and the delayed disclosure of the incident in the FIR may be a subsequent embellishment. As such, the FIR should be excluded from consideration. In this regard, he refers to the case of *Nowabul Alam and others v. The State*, reported in 15 BLD (AD) 54, para 24.

Secondly, Mr. Shahjahan submits that accused Kulsum was taken into custody on 30.06.2011 when she was found with the dead body. However, she was not produced before the magistrate until 02.07.2011 at around 1:30 p.m. Therefore, the accused Kulsum was kept in police custody for more than 24 hours, which is not authorized by law. As such, her confessional statement cannot be considered as having been made without undue influence or coercion. Consequently, the confessional statement of accused Kulsum should be excluded from consideration as it cannot be deemed true and voluntary. In this connection, he cites the case of *Bhuboni Shahu v. The King*, reported in 2 DLR 39.

Thirdly, Mr. Shahjahan argues that the non-examination of the adjacent room occupant, Mrs. Jeba, who heard the screams during the alleged incident and knocked on the door of accused Kulsum, asking what had happened, is a vital omission. Kulsum reportedly responded that it was an affair between a husband and wife. The failure to produce this key charge-sheeted witness, Mrs. Jeba, raises a presumption under Section 114(g) of the Evidence Act, 1872. He cites the case of *Alkas Mia v. The State*, reported in 25 DLR (1973) 398, para 14.



Fourthly, Mr. Shahjahan also argues that since accused Kulsum was kept in police custody for more than 24 hours, her confession cannot be regarded as having been made without undue influence or coercion. Additionally, the confessions made by the other two co-accused cannot be used to corroborate her confession. Relying on the case of *The State v. Mukhtar Ali and Another*, reported in 10 DLR 155, para 20, he emphasizes that although a confession can serve as the basis for convicting its maker, the confession of a co-accused cannot be used against a non-confessing accused. Such confessions can only be used to lend assurance to other corroborative evidence. He concludes by arguing that no overt act has been disclosed against accused Kulsum Nahar Beauty, and therefore, capital punishment should not be awarded.

Fifthly, Mr. Shahjahan argues that during the examination under Section 342 Cr.P.C., the court did not put all the incriminating evidence before the accused Kulsum, who was present in court. As a result, she was not given an opportunity to deny, explain, or comment on the allegations, meaning her examination under Section 342 was not conducted properly. He relies on the decisions reported in 18 MLR (AD) 109, 27 DLR (AD) 25, and 17 BLD (HCD) 82.

Sixthly, Mrs. Bulbul Rabeya Banu, the learned state defence counsel appearing for the absconding convicts Md. Ruhul Amin and Md. Soleman Hossain, largely adopts the submissions made

by Senior Counsel, Mr. S.M. Shahjahan. However, Mrs. Banu adds that accused Ruhul Amin was arrested on 22.11.2011 at around 9:00 AM from Shaymoli, Dhaka, and taken to Pabna the same day. A confession was extracted from him around 3:30 PM on that very day, and therefore, Md. Ruhul Amin was not given sufficient time for reflection before making the confession. She refers to the cross-examination of PW15, the investigating officer, and submits that before recording the confessional statement of accused Ruhul Amin, the magistrate, PW12, placed him in the custody of the Investigating Officer, PW15, for reflection. As such, the confessional statement of Md. Ruhul Amin was extracted under undue influence and coercion, and it should not be considered voluntary or truthful. She further submits that there are contradictions between the confessional statements of the accused persons. Since Md. Ruhul Amin and Soleman remain absconded, their abscondence by itself should not be considered a proof of their guilt. In this regard, she cites the case of *The State v. Lalu Mia, reported in 39 DLR (AD) 117*.

***Prosecution's Contentions:***

On the other hand, Mr. M. Masud Rana, the learned Deputy Attorney General, prays for the confirmation of the death sentence awarded by the Tribunal, arguing that:

- (a) The prosecution has presented a strong chain of circumstantial evidence against the accused persons. The recovery of the dead body from accused Kulsum's house, along with incriminating articles and the belongings of

accused Md. Ruhul Amin, coupled with the motive to eliminate the victim, establishes a compelling and unbroken chain of circumstantial evidence, aside from the confessions made by all three accused persons.

- (b) The recovery of the victim's dead body from Kulsum's house and the injuries found on the body are entirely consistent with the confessions. The precise role and participation of all three accused, along with the premeditated nature of the murder and their common intention, justify the Tribunal's decision to impose the death penalty.
- (c) Referring to the testimonies of PW2, PW7, PW10, and PW15, it is established that the witnesses knocked on the door of accused Kulsum's house, entered the room, and found Kulsum alone. When asked by the prosecution witnesses about her husband, she attempted to conceal the crime and mislead the witnesses by claiming that her husband was not at home and had left following an altercation between them. This effort to conceal the truth, along with the discovery of the dead body, directly links accused Kulsum to the murder.
- (d) The confessional statements alone are sufficient to convict each of the accused persons. However, there is also ample independent evidence apart from the confessions. All the confessions narrate the way and participation of the

accused in the killing, and they are entirely consistent with the inquest report, post-mortem report, and the recovery of the dead body along with the incriminating articles. This evidence points conclusively to the guilt of the accused persons.

- (d) The prolonged abscondence of accused Ruhul Amin and Soleman after being granted bail by the Court allows the court to draw an adverse inference against them.

As both the Death Reference and the Criminal Appeal arise from the same impugned judgment, they have been heard together and are being disposed of by this common judgment.

***Prosecution Testimonies:***

For proper adjudication of the Death Reference and connected Criminal Appeal the prosecution evidence needs to be reassessed:

**PW1 (Most. Sija Begum)**, the daughter of the accused Kulsum, deposes that on 30.06.2011, at around 2–3 AM, the police from Pabna Police Station informed her over the phone that her father's dead body had been found near the Pakistani Eid-gah field while she was at her husband's house. She rushed to the Thana alone and saw the dead body of her father. She identified the accused Kulsum Nahar Beauty in the dock. She deposes that she was not aware of any illicit relationship between Kulsum and Ruhul Amin. She did not know whether the accused Ruhul and

Soleman killed her father by strangulation. During cross-examination, she states that the relationship between her father and mother was good. During cross-examination on behalf of by the accused Ruhul Amin and Soleman, she states that her father's death was unnatural, and she saw the dead body and signed the inquest report as a witness.

**PW2 (Babu Mridha)**, the brother of the deceased and the informant in this case, deposes that he entered the house and saw a jute sack near the sofa. The sack was tied at the top. He pulled it to the middle of the room. More people gathered. When they opened the sack, they found the dead body of his brother, Mosarrof Hossain Khokon. His neck had been strangled with a green nylon rope. He further stated that his brother had been married to the accused Kulsum Nahar Beauty for about 28 years. However, for the past two years, she had an illicit relationship with a man named Ruhul, including physical relations. When his brother objected, conflict arose between them. On the night of 30.06.2011, around 11:30 PM, Kulsum, Ruhul, and Soleman murdered his brother in his rented house, placed his body in a sack, and attempted to hide it. When the incident became known, Ruhul and Soleman fled, but Kulsum was caught.

On 01.07.2011, at 2:35 AM, in his presence, the police seized a jute sack, a hand-stitched quilt, a yellow nylon rope, a piece of black cotton fabric, and a thin yellow nylon string. A seizure list was prepared, which he signed, and it was marked as Exhibit-2, 2/1. On the same date, he filed the case and signed it, which was

marked as Exhibit-3, 3/1. Subsequently, at 2:45 AM, the police again seized a chocolate-coloured wallet, a driving license in Ruhul's name, a photocopy of Ruhul's NID, a Destiny-2000 LTD Point Privilege Card with Ruhul's photograph, a money exchange card, and a Job Seeker Registration Card with Ruhul's photograph. These items were also seized in PW2's presence, and he signed the seizure list, which was exhibited as Exhibit-4, 4/1. The seized items were marked as exhibits as follows: I – jute sack, II – quilt, III – yellow nylon rope, IV – black cotton fabric, V – thin yellow nylon string, VI – wallet, VII – driving license, VIII – NID card, IX – Destiny-2000 LTD Point Privilege Card, X – money exchange card, and XI – Job Seeker Registration Card with photograph. He identified the accused Kulsum in the dock.

During cross-examination by the accused Kulsum Nahar, he states that he was not accused in any case. His brother Mosarrof lived in a rented house in Kalachand Para, while he himself lived in Dilalpur, approximately two kilometers away. He was informed about the incident by Ruhul from Kalachandpur. He reached the location around 11:30 PM and saw 15–16 people there. He stayed until the police took the body at around 4:30–5:00 AM. He accompanied the body to the police station. He saw Kulsum at the station and remained there until 9:00 AM.

He further states that his brother had two daughters and two sons. The eldest son, Bipul (22 years old), was in Saudi Arabia at the time. The younger son, Setu (18), the eldest daughter, Bipa (24),

and the youngest daughter, Siza (19), were all married and living with their spouses. He denied the suggestion that his brother's body was found in a field near the Eid-gah ground. He also stated that he had no land or property dispute with his brother and denied the suggestion that his brother had many enemies.

During cross-examination by the state defence, he denied the suggestion that the two-year illicit relationship between Ruhul and Kulsum had not been mentioned in the ejahar. He stated that he had heard about the illicit relationship directly from Kulsum.

**PW3 (Md. Johir Hasan Rubel @ Md. Jewel Hasan Rubel)** deposes that he sensed something serious might have happened. The house owner, Rasel, asked him to go there. Two parts of the house had been rented; one by Amin and the other by Mosarrof (the victim). Upon receiving the news, he called the Pabna Police Station. The police arrived near his house, and he went with them to Rasel's house. A female voice was heard from inside asking, "Who is it?" The police responded, "We are from the administration, open the door." The door was opened, and upon entering, he saw a woman inside. There was light in the house. When asked whether her husband was home, she replied he was not. Based on prior information and suspicion, he entered Mosarrof's room along with the police. Initially, they found nothing, but then he noticed a connecting door leading to another room. The door was slightly ajar and seemed obstructed. Amin, who was with them, pushed the door forcefully. As he entered,

he didn't see anyone at first, but the tin roof seemed slightly open, making them think someone might have escaped.

When Amin touched the sack placed near the door, he sensed human feet inside. The accompanying police officer then called for reinforcement. Later, they opened the sack and found the dead body of Mosarrof Hossain, tied with a nylon rope. The police questioned his wife, Kulsum, and later took her to the police station. He identified the woman in the dock.

**PW4 (Md. Doblur Mridha)** deposes that on the night of 30.06.2011, at around 11:00 PM, he was at home. His brother, Babu Mridha, called him and said that their brother, Khokon Mridha, had died at a rented house belonging to Rasel in Kalachand Para. After hearing the news, he went to the house. He saw many people in front. He entered and went to the drawing room, where he saw a jute sack. They opened it and found a dead body inside. He states that Beauty, Ruhul, and Soleman had killed his brother. The police arrived shortly afterward and took the body to the police station. After the post-mortem, the body was buried. He identified Beauty in the dock, stating that she is his brother Khokon's wife.

During cross-examination on behalf of the accused Beauty, PW4 states that Rasel's house is about a mile to the north. Later, he said that he and the informant lived in the same house. On the night of the incident, since the informant was outside, he informed PW4 by phone. Initially, PW4 didn't understand and



said the house was a mile away. When he went to Russel's house, he met the informant, Babu Mridha, and reached there around 11:00 PM. He saw many people—at least 15 to 20. Rubel, Suman, Babu (his brother), and others were present. He stayed until the police took the body and accompanied them to the police station, arriving there around midnight.

**PW5 (Md. Touhid Mridha)** deposes that on 30.06.2011 his brother Babu Mridha informed him over mobile-phone at around 11/11:30 PM that their brother, Khokon Mridha has been killed in Rasel's house at Kalachadpur. He together with Dablu Mridha, Saju went to Rasel's house in Kalachand Para. There, he saw many people. Inside the house, next to a sofa, he saw Khokon's dead body in a jute sack. When the locals informed the police, they arrived and took the body to the station. They also went to the station. Later, he heard that Beauty, Ruhul, and Soleman had murdered Khokon. After the post-mortem, they received the body and performed the burial. He identified Beauty in the dock.

During Cross-examination by the defence (Accused Beauty's lawyer) he states that the Informant, Babu Mridha, and he live in the same house. Babu Mridha called him on the phone. It was around 11 or 11:30 PM. Upon receiving the news, he went directly to Rasel's house. His brother and nephew, Saju, also accompanied him. Besides them, there were about 15 to 20 people at Rasel's house. He knows someone named Rubel, and he was also present there. However, he does not know the names

of the others. There were two rooms in Khokon's rented house, but he cannot specify which plot it was on. He also cannot say in which direction the entrance of the house faced. He went to the police station with the body. The police interrogated him that night. He denied the suggestion that he did not see the body inside the jute sack near the sofa.

**PW6 (Md. Saju Mridha)** was declared tendered by the prosecution and the defence declined to cross-examine him.

**PW 7 (Sumon)** states that my sister-in-law called him on the mobile from home, saying that there might be some trouble near our house and that he should come home quickly. He rushed back home. Before entering, he saw many people outside. He asked them what had happened. The people present told him that there was some trouble at Rasel's house, which is next to him. Instead of going home, he stayed with the people and tried to open Rasel's door. There was no response from inside, and the door would not open. He then called Jewel Hasan Rubel, an elder brother of his area, and asked him to come. Rubel Bhai arrived and called the police. The police arrived shortly after receiving the report. The local people informed the police, who then knocked on the door.

After 10 to 15 minutes, a woman named Beauty opened the door. PW7 already knew her as a neighbor. The police and the gathered people entered the house. Inside, they saw that apart from Beauty, there was no one else. They asked her about the

sounds of struggle heard from the house and where everyone was. Beauty replied that she and her husband had been arguing and he had left. She then remained silent. The police then conducted a search but did not find anyone. Later, during questioning, Beauty eventually confessed that there was a dead body inside a sack in the house. They, along with the police, went inside again. Near the sofa, they found a jute sack (tied tightly). When the police opened it, they found the dead body of a man inside, folded and wrapped in a quilt and a lungi. He was present there.

Upon seeing the body, he recognized him as Mosharaf, a dynamo mechanic. When Beauty was questioned again, she said that Ruhul and Soleman had killed him and left. The police then prepared an inquest report on the spot. He signed the inquest report. This is the inquest report, and signature, Exhibit 1/2. After that, the police took the body away. That night, there was heavy rain. After talking with some local people for a while, he returned home. The police also took Beauty to the station along with the body. He identified Beauty in the dock.

While cross-examined on behalf of the accused, Kulsum Nahar Beauty, he stated that at the time of the incident, he was the president of the Pabna Sadar Thana Chhatra League. Jahir Hasan Rubel was involved with the Jubo League. During our gathering, Sumon, Tuchar, Bacchu, Bipul, Morshed, and Milon were present with him. (To the Court) In front of Rasel's house, he

initially saw around 7 to 8 people. The house whose door was being knocked on was Rasel's house.

**PW8 (Altaf)** deposes that on 01.07.2011 S.I. Muzibor Rahman called him to police station and he brought out the pieces of clothes from polyethene bag, which were parts of the deceased's wearing clothes. S.I. seized those and PW8 put his signature on the seizer list.

**PW 9 (Most. Bipra Khatun)** deposes that after hearing the news, she informed her husband and quickly went to the Eidgah field at Kalachand Para with him. It was around 6:00 in the morning. At the field, they found that the body was not there. When they asked nearby people, they said the body had been taken to the police station. Then she went to the police station and saw the body wrapped in polythene lying on a rickshaw van. She could recognize her father's body. A post-mortem was conducted and later, the body was buried at Arifpur Graveyard in Pabna. She put her signature is on the inquest report, Exhibit 1/4. She saw the accused Kulsum Nahar Beauty, who is her mother, in the dock. Her father did not die a natural death, someone killed him. Cross-examination (hostile witness)

Her father and mother used to live at Rasel's rented house in Kalachadpur village. Her in-laws' house is 10 minutes away by rickshaw. She denied that at around 11:00–11:30 PM on 30.06.2011, Babu Mridha and Rasel (the house owner) informed her husband, and she went with him to Rasel's rented house at

Kalachand Para around 11:30–11:40 PM. She saw Babu Mridha, Jewel, Rubel, Rasel, Rocky, Rasel Haque, Ziaul Karim Suman, Roich Sheikh, and sister Sija there. It is not true that her father's body was found in a sack tied with a nylon rope in the northwest corner of the western bedroom of the half-built house. On 30.06.2011, when her father returned home around 11:00–11:30 PM, accused Ruhul and Soleman entered the house earlier and hid, and as soon as her father entered, they grabbed him and strangled him with a nylon rope—whether this happened, she does not know. It is not true that her mother assisted in the murder due to an illicit relationship with accused Ruhul. It is not true that I knowingly gave false testimony to save my mother.

**PW10 (Rasel)** stated that Mohammad Mosharaf Mridha (Khokon) was a tenant in his house. The dead body of a man was found inside a jute sack, wrapped with a yellow nylon rope, in the room rented by Mosharaf Mridha. Since it was his rented property, he accompanied the police to the location and saw the dead body of Khokon Mridha. A black rope made of jute fabric was tied around Khokon's neck, and his hands and feet were also bound. The police took the body and asked him to go to the station. The inquest was conducted at the house, and he signed the inquest report—marked as Exhibit 1, 1/5.

On 01.07.2011, at 2:35 AM, inside Mosharaf Mridha's rented room, the police seized the following items: a jute sack, a printed fabric quilt, a yellow nylon rope, a black cotton cloth, and another thin yellow nylon rope. PW10 was present at the time,

and the police took his signature on the seizure list, marked as Exhibit 2, 2/2.

At 2:45 AM the same night, from the rented room of the deceased Khokon Mridha, the police seized: a chocolate-colored leather wallet, two passport-size photographs, a motor driving license, a photocopy of a national ID card in the name of Mohammad Ruhul Amin, a Point Privilege Card, a Money Exchange Card bearing card number 15475875 and the name Ruhul, a Job Seeker Card with the same number, and a Registration Card. The police took his signature on the seizure list, marked as Exhibit 4/2.

Near the body, PW10 saw Khokon's wife, Beauty. The people present stated that Beauty and her associate had murdered Khokon, and that the man had already fled. He identified Beauty in the dock and also identified the previously submitted evidence: the jute sack, quilt, nylon ropes, black cloth, photocopy of the national ID, driving license, wallet, and other cards.

Cross-examination (on behalf of the accused Kulsum Nahar Beauty): PW10 states that the deceased Khokon was his tenant, although there was no written rental agreement. At the time, around 20 to 25 people were present in the room. His other tenant, Jeba Khatun, was also in Khokon's room. Jeba told him that Beauty and her associate, Ruhul, had killed Khokon. He signed both the inquest and seizure reports. He denied the

defence's suggestion that he had not spoken to the Investigating Officer and that he gave false testimony.

**PW11 (AFM Gulzar Rahman)**, Senior Judicial Magistrate of Pabna District, stated that he recorded the confessional statement of the accused Kulsum Nahar Beauty under Section 164 of the Cr.P.C. She signed the statement in his presence, and the statement has been marked as Exhibit 6/k series. After recording it, he certified that the statement was given voluntarily.

Cross-examination (on behalf of Kulsum Nahar Beauty): He states that the confession was recorded in the drawing room of his official residence in Pabna district town. His family members were in another room. Since it was a holiday, the statement was recorded at home. As there was no specific column in the form to note this, he did not write any explanation regarding the location. He was unaware of any law requiring that a confession must be recorded in court on holidays. The accused was arrested from Tota Miah's Lane in Kalachandpur, under Pabna Police Station, on 02.07.2011 at 8:30 AM and was presented before him the same day. The police brought her to his official residence at 1:30 PM after a phone conversation. The statement was recorded and completed by 5:30 PM. He denied the allegation that the accused was returned to police custody after the confession in violation of the law. He verbally explained to the accused that the confession could be used as evidence against her, though this was not written. He confirmed in Column 8 that the confession was voluntary. Although his

signature was not directly beneath the certification, it was present on the same page. He denied the defence's claim that the confession was fabricated.

**PW12 (Md. Kabir Uddin Pramanik)**, Senior Judicial Magistrate, states that he recorded the confession of the accused Md. Ruhul Amin. He identified the confession and his six signatures as Exhibit-7, 7/1 series. The accused signed the confession form in his presence in three places, marked as Exhibit-7/ka, 7/kha, and 7/ga. He did not certify Column 8, but he gave the accused sufficient time to reflect before recording the statement. He did not see Ruhul Amin in the dock.

Cross-examination (by state defence for Ruhul Amin and Soleman): He states that the police arrested Ruhul Amin from Shyamoli, Dhaka on 21.11.2011 at 9:00 AM. The confession was recorded in his private chamber, as noted in the form. S.I. Mojibur Rahman brought the accused at 3:30 PM. He gave the accused over two hours to consider his statement. During this time, Ruhul was kept in his private chamber under the supervision of S.I. Mojibur Rahman, who was also present in the chamber. Mojibur Rahman is the Investigating Officer (IO) of the case. In Column 6 of the form, he asked three questions but did not ask whether the accused had been physically tortured, threatened, or induced. Nor did he clarify whether the accused would be returned to police custody regardless of whether he confessed. After the confession, he sent the accused to Pabna Jail, but the form does not specify who accompanied him. It is



also not recorded that the IO was present during the confession. He denied that the confession was involuntary or fabricated.

**PW13 (Dr. Md. Toriqul Islam)** deposes that he conducted the autopsy and found the following injuries on the body:

1. One continuous ligature mark encircling the entire neck, 1 cm in width, at the level of the thyroid cartilage;
2. Ligature marks on both forearms and legs, each 2 cm in width;
3. Three crescent-shaped abrasions on the front of the neck, each 0.5 cm in length.

Upon dissection, the muscles and soft tissues under the ligature marks were compressed and congested. The larynx was also compressed and congested. Both lungs and the pleura were highly congested. The heart was full of blood. The final opinion of the medical board was that the cause of death was asphyxia due to strangulation, which was antemortem and homicidal in nature.

**PW14 (Md. Shamsul Al Amin)** deposes that he, as a Judicial Magistrate, recorded the confessional statement of the accused Md. Soleman. After confirming the identity of the accused, he gave him time for reflection as per legal procedure. At around 4:00 PM, Soleman voluntarily and in a sound mental state confessed to his involvement in the crime. PW14 recorded the statement, which contains his five signatures, marked as Exhibit 9, 9/1 series. The accused also signed in his presence, Exhibit

9/ka series. He certified that the accused appeared normal and gave the confession knowingly and voluntarily.

Cross-examination (by state defence for Soleman and Ruhul): PW14 states that the accused was arrested on 11.10.2011 at 3:00 AM from his own tailor shop in Sripur village under Ataikula Police Station, Pabna district. S.I. Mojibur Rahman, the IO, presented him. In Column 6 of the form, PW14 did not ask in Bengali whether the confession could be used as evidence against the accused because the question was already present in Column 5(3), which he explained to the accused. After recording the confession, he sent Soleman to jail through court police, but this was not recorded in the form. He denied that the confession was not voluntary and testified in court that the confession was freely and truthfully given, although this certification was not written in the document.

**PW15 (Md. Mojibur Rahman)** in his chief states that after assuming responsibility of investigation, he visited the scene on 02.07.2011, prepared a draft map and an index of the scene separately, and signed them. The draft map and index, his signature on them is marked as Exhibit-10, 10/1, 11, 11/1. He seized relevant evidence related to the case based on G.D. No. 1228 dated 30.06.2011. At 2:35 AM on 01.07.2011, he seized evidence through three separate seizure lists. At 2:35 AM, the seizure list included: 1) a large jute sack (containing dead body of Mosharraf Hossain Mridha alias Khokon), 2) a yellow-coloured nylon rope (approximately 22 hands long), wrapped

with a quilt, 3) a hand-stitched quilt (used to wrap the body), 4) piece of black printed fabric (found tied around the deceased's neck). 5) a thin yellow nylon rope (used to tie the deceased's legs to his head). This is the seizure list with his signature marked as Exhibit-2/3.

On the night of 30.06.2011, he was on duty at the police station. At approximately 11:00 PM, the duty officer recorded GD No. 1228 upon receiving information and assigned him to visit the scene. Based on that GD, he arrived at the rented house of Mosharraf Hossain Khokon in Shivramapur, Pabna, at around 11:05-07 PM. There were many people present. He entered the house along with some local residents and found Kulsum Begum there. Upon questioning her, she failed to provide a satisfactory answer, so he searched the house. Next to the sofa in Kulsum Begum's living room, he saw a human foot inside a sack. Upon opening it, we found a dead body, which Kulsum Begum identified as her husband, Mosharraf Hossain Mridha. The body was wrapped in a quilt and tied with a nylon rope. He unwrapped the quilt and prepared the inquest report at 11:55 PM on 30.06.2011. His signature on this report is marked as Exhibit-1, 1/6. The inquest report recorded the details of the body's condition. At 2:35 AM on 01.07.2011, PW15 prepared a second seizure list following the discovery of the body. Subsequently, at 2:45 AM, another search was conducted in the same house, during which additional items were recovered. These included a chocolate-colored wallet containing two passport-sized photographs, a motor driving license (No. PB 0011536 L) issued

in the name of Md. Ruhul Amin with his address, a photocopy of a national identity card also bearing Ruhul Amin's name and address, a Destiny Group Privilege Card in his name, a money exchange card from "Al Ahalia Money Exchange," and a job seeker registration card containing Ruhul Amin's personal details and photograph. These items, clearly linked to Ruhul Amin, were documented in the seizure list and signed by the investigating officer and witnesses. He prepared the seizure list, obtained witnesses' signatures, and put his own signature, as Exhibit-4, 4/3. Based on the same GD, at 6:05 PM on 01.07.2011, he seized portions of the deceased's white shirt and black pants after the post-mortem examination. He signed the seizure list and collected witnesses' signatures. This seizure list is marked as Exhibit-5, 5/2.

Subsequently, the deceased's body was transported to Pabna Sadar Police Station under police escort for further transfer to the morgue to determine the exact cause of death. Kulsum Begum was also taken to the police station. At 11:05 AM on 01.07.2011, the body was sent to the Resident Medical Officer (RMO) of Pabna Sadar Hospital through Constable No. 497 Md. Abdul Jalil. The dispatch document is marked as Exhibit-12, 12/1, with Constable Jalil's signature recorded as Exhibit-12/2.

On 01.07.2011, at 10:05 PM, Pabna Police Station registered Case No. 3. He interrogated the witnesses in accordance with Section 161 Cr.P.C. and recorded their statements separately. The accused, Ruhul Amin and Soleman, were arrested and

produced before the court. He arranged for their confessional statements to be recorded by the learned First Class Judicial Magistrate. Kulsum Begum was initially sent on remand under Section 54 Cr.P.C. on 01.07.2011. Later, on 02.07.2011, he applied to show her arrested in this case, which the court approved. On 13.07.2011, she was discharged from the Section 54 allegations. Her confessional statement was recorded on 02.07.2011 by the First-Class Judicial Magistrate.

After concluding both covert and open investigations, the evidence gathered confirmed that the accused Kulsum Begum, Ruhul Amin, and Soleman were involved in the murder of Mosharraf Hossain Mridha alias Khokon and in concealing his body in a sack. Hence, an official charge sheet (No. 543) was submitted under Sections 302 and 201/34 of the Penal Code at Pabna Police Station on 13.12.2011 for trial. The seized evidence, including the sack, quilt, two nylon ropes, and a black fabric scrap, was documented accordingly. He identified Beauty in the dock.

During cross examination PW15 states that GD Entry No. 1228 dated 30.06.2011 did not mention the time of entry. However, he reached the place of occurrence on the night of 30.06.2011 at approximately 11:05–11:07 PM, under the instruction of the Duty Officer, which was received via wireless communication. He was on duty at that time and left the police station shortly before 11:00 PM, reaching the scene within 5-7 minutes on a

motorcycle. The distance from Pabna Sadar Police Station to the incident site is around 2 km, as noted in the FIR.

According to case records, the incident took place on 30.06.2011 at 11:00 PM. Upon arrival, PW15 found the main gate and Kulsum Nahar's room locked. After knocking, Kulsum opened the door. Tenant Amin and his wife, who were also in the house, came out via the balcony (marked "E" in the sketch map) and re-entered through gate "A". Several others, including Rubel, Babu Mridha, Rocky, Rasel Haque, and Ziaul Karim Sumon, accompanied him.

PW15 prepared the inquest report at 11:55 PM on 30.06.2011. He then created two seizure lists and brought the body to the police station around 4:00 AM on 01.07.2011. Before leaving, he locked Kulsum's room and handed over the key to her daughter. Kulsum was also brought to the station as she was present in her room. Kulsum was detained under GD No. 12 dated 01.07.2011, which also lacked a time entry. The entry was made after bringing her to the police station. Kulsum was shown as arrested on 02.07.2011 by order of the court. The exact time of producing the body before the court on 02.07.2011 is not remembered; she was produced in the regular case and a prayer for recording her statement under Section 164 Cr.P.C. was submitted. Kulsum remained in police custody until she was taken to court.

PW15 denied the suggestion that Kulsum was illegally detained for more than 36 hours, or that her confession was coerced. He

clarified that although the charge sheet did not mention Section 54, it stated she was arrested soon after the incident. He claimed to have caught her red-handed while bringing the body to the station.

On 02.07.2011, PW15 submitted three applications to the court. Around 1:30 PM, he took Kulsum to Magistrate Gulzar's residence for recording her statement under Section 164. According to that statement, she was arrested by 8:30 AM on 02.07.2011. PW15 refuted the claim that her arrest was shown in court before any application was submitted to that effect. He admitted that the inquest report did not mention the height or build of the deceased, and the seizure list lacked measurements of the jute sack. None of the evidence presented in court carried identification marks.

PW15 denied the defence's suggestions that the deceased was killed by unknown persons due to a family feud, or that Kulsum's arrest was influenced by the victim's siblings. He also denied that Kulsum was absent at the scene, or that she was illegally detained and tortured to extract a confession. Lastly, he rejected the claim that he had failed to identify the real killer.

***Is the GD Entry Considered the First Information, and Is the Subsequently Lodged FIR Treated as a Statement Under Section 161 Cr.P.C.?***

Mr. S.M. Shahjahan, learned Senior Defence Counsel, argues that since the police arrived at the scene following the entry of

GD No. 1228 dated 30.06.2011, and as this reference appears in the inquest report, challan, and post-mortem report, the subsequent FIR is merely an embellishment of facts and, at best, could be treated as a statement under Section 161 Cr.P.C.

To address this contention, we have carefully reexamined the testimony of PW15, the IO, who stated that he was sent to the scene by the duty officer at around 11:00 PM on 30.06.2011. The said duty officer had registered GD No. 1228, which did not pertain to any 'murder'; rather reflected a situation requiring urgent police intervention. Upon reaching the scene, PW15 found a crowd outside the house. He entered the room along with PW2, PW3, and PW7, where they encountered the accused, Kulsum. When questioned, she failed to offer a satisfactory explanation. During a search of the room, PW15 and the witnesses present discovered a human leg in a jute sack placed beside the sofa, and upon further inspection, they recovered the deceased's body. This discovery was made at approximately 11:30 PM on 30.06.2011. Until that point, neither the police nor the witnesses were aware that a murder had occurred.

Following the inquest and seizure of evidence, the process concluded around 2:45 AM on 01.07.2011. Since no FIR had yet been lodged, references to the initial GD were naturally included in those preliminary documents. The GD entry, therefore, served merely as an administrative trigger for police movement, not as a formal record of a cognizable offence. Upon returning to the police station at around 4:00 AM on 01.07.2011 with the body



and the accused Kulsum, another GD (No. 12 dated 01.07.2011) was entered, and she was formally arrested under that GD. Later, the FIR was lodged by the victim's brother (PW2) at 10:05 PM on 01.07.2011, which became the formal first information regarding the offence of murder. The earlier GD entries, though recorded promptly, merely served as preliminary records to initiate police action. Moreover, the accused was discharged from proceedings under Section 54 Cr.P.C. on 13.07.2011, and the formal investigation commenced only after the FIR was lodged.

Therefore, the argument advanced by Mr. S.M. Shahjahan is not sustainable. The facts and procedural steps in this case are clearly distinguishable with his cited case reported in *1987 BLD (AD) 1-* where information of 'murder was carried to police by 'some body' was considered as 'first information' in direct relation to the very offence of 'murder' for which the FIR was subsequently lodged. That scenario differs materially from the present case, where the initial GD was unrelated to any specific offence and the murder only came to light after police arrived on scene.

Where a GD entry prompts police intervention and leads to the discovery of a cognizable offence (such as murder), but such GD was not made in relation to that specific offence, the GD cannot be treated as the FIR. In such cases, the formally lodged FIR following the discovery serves as the 'first information' under Section 154 Cr.P.C. Earlier GD entries merely serve as records

indicating initial police response and subsequently lodged FIR cannot be equated to a statement under Section 161 Cr.P.C., nor can they invalidate or diminish the authenticity or evidentiary value of the subsequently registered FIR.

**Non-Examination of Next-Door Neighbours: Adverse Inference?**

Mr. Shahjahan, the learned senior counsel for the accused-appellant, Kulsum, raises concerns regarding the non-examination of the occupants of the adjacent room-namely Jeba and her husband Amin. He contends that their non-production as witnesses gives rise to an adverse presumption against the prosecution under Section 114(g) of the Evidence Act.

According to the testimonies of the prosecution witnesses, Jeba and her husband Amin were tenants residing in a room adjacent to that of the accused, Kulsum. It appears from the record that upon hearing screams, Jeba inquired of Kulsum, asking her-"Aunty, what has happened?" Kulsum allegedly replied that it was a matter between husband and wife. Subsequently, both Jeba and Amin entered the room, along with other prosecution witnesses, and discovered the victim's dead body. Hence, Jeba and Amin were material witnesses in the case.

The record further reveals that both Jeba and Amin provided statements to the police under Section 161 Cr.P.C.. Despite being cited in the charge sheet, neither witness was examined in court. This omission, according to Mr. Shahjahan, warrants an adverse

presumption under Section 114(g) of the Evidence Act. However, upon perusal of the case record and the impugned judgment, it is evident that both Jeba and Amin were summoned to testify before the court. When they failed to appear, warrants of arrest were issued. The concerned police station later reported that Amin had passed away, and following his death, Jeba's whereabouts became unknown.

More importantly, the prosecution is not bound to examine all witnesses listed in the charge sheet. Section 134 of the Evidence Act clearly states that no particular number of witnesses is required to prove any fact. A conviction can be based on the testimony of even a single credible witness. In *Abu Taher Chowdhury & Others v. State*, reported in 42 DLR (AD) 253, the Appellate Division held that the testimony of a single trustworthy witness is sufficient for conviction. Similarly, in *Ezahar Sepai v. State*, reported in BCR 1987 HCD 220, it was held that the non-examination of witnesses who are not eyewitnesses does not give rise to an adverse presumption under Section 114(g) of the Evidence Act, 1872.

In view of these legal principles and the circumstances surrounding the unavailability of Jeba and Amin, we are not inclined to draw an adverse presumption against the prosecution under Section 114(g) of the Evidence Act. It appears that due diligence was exercised to secure their testimony, and their absence was not due to any deliberate withholding of material witnesses by the prosecution. The circumstances suggest that

reasonable efforts were made to secure their presence, and their absence was beyond the prosecution's control.

***Section 342 Examination Flawed?***

It has been argued by Mr. S.M. Shahjahan that during examination of the accused, Kulsum under Section 342 Cr.P.C., all incriminating pieces of evidence were not brought to her notice, thereby denying her the opportunity to explain or respond adequately. He contends that the examination under Section 342 was defective.

Upon careful scrutiny of the record, we find that the trial court drew the attention of the accused Kulsum to the material allegations against her, including the accusation of murdering her husband and the confession she made in connection with the incident. Section 342 Cr.P.C. is designed to ensure that the accused is made fully aware of the evidence against them and is afforded a fair opportunity to explain any circumstances appearing in the evidence.

In this case, Kulsum was individually examined by the court, during which she was made aware of the core allegations and the substance of the prosecution evidence. The purpose of such examination is not to conduct a detailed interrogation but to confirm that the accused understands the nature of the accusations and is given an opportunity to respond. Furthermore, the confession made by Kulsum shortly after the occurrence

lends weight to the conclusion that it was made voluntarily and with a clear understanding of the situation.

Significantly, at no point during or after the confession, or even at any stage of the trial, did Kulsum allege that she was subjected to coercion or undue influence. This absence of any such claim strongly supports the inference that the confession was made voluntarily and that the process met the legal standards of fairness and due process. The defence's argument that the failure to confront the accused with every individual piece of incriminating evidence rendered the examination defective is thus unfounded. The accused herself raised no objection to the process, nor did she assert that she was unaware of the charges or prejudiced in any way.

Moreover, the record clearly reflects that the accused Kulsum was present in court during the examination of all prosecution witnesses. She heard their testimonies and was thus fully aware of the allegations and the evidence presented against her. During her examination under Section 342 Cr.P.C., she was given ample opportunity to respond, deny, explain, or comment on the same. Hence, merely summarizing the key allegation of murdering her husband during her examination did not, in any way, prejudice her defence.

Therefore, we are of the view that the examination under Section 342 Cr.P.C. was properly conducted. In this connection, reliance may be placed on the case of *Monir Hossain alias Suruj vs. The*

*State, reported in 1 BLC (AD) 82, where it was held that the examination under Section 342 Cr.P.C. need not be exhaustive, so long as the accused is given a fair opportunity to respond to the essential elements of the prosecution case.*

### ***The Confessions:***

The confessional statement of the accused Most. Kulsum Nahar Beauty which was recorded by the PW11 on 02.07.2011 is reproduced below:

“পাবনা জেলার আটঘরিয়া থানার রানীগ্ৰাম সাকিনের মৃত আক্কাস আলীর পুত্র<sup>□</sup> রুহুলের সাথে প্রায় এক বছর ধরে আমার পরকিয়া প্রেমের সম্পর্ক আছে। তার সাথে আমার দৈহিক সম্পর্ক চলে অনেক দিন ধরে। সে আমাকে বিবাহ করতে চায়। পথের কাঁটা হিসেবে আমার স্বামী মোশারফ হোসেন মৃধা <sup>২</sup> খোকন কে আমরা খুন করার পরিকল্পনা করি। সে মোতাবেক গত ইং ৩০/০৬/২০১১ তারিখে বিকাল ৪.০০ টায় রুহুল পাবনা শহরস্থ কালাচাঁদপাড়া তোতা মিয়ার গলির বাসাতে আসে। রুহুলের বন্ধু সোলেমান পিতা-অজ্ঞাত, সাং- রানীগ্ৰাম, থানা- আটঘরিয়া ঐ তারিখ (৩০/০৬/২০১১ইং) রাত্র অনুঃ ৮.৩০ মিঃ আমার বাসাতে আসে। তার পরপরই আমি রুহুল ও তার বন্ধু সোলেমানকে ভাত খেতে দিই। তারপর তারা আমার স্বামীর ঘরের লাইট বন্ধ করে দিয়ে লুকিয়ে থাকে। রাত্র অনুঃ ১১.০০/১১.৩০ টায় আমার স্বামী বাইরে থেকে বাসায় ফিরে। বাসার মেইন গেটের তালা লাগিয়ে সাইকেল রাখার জন্য বারান্দায় আসে। বারান্দা থেকে তার (স্বামী) ঘরে ঢোকান মুহুর্তে রুহুল ও সোলেমান দুইজন মিলে আমার স্বামীকে ধরে ফেলে এবং বারান্দায় ফেলে দেয়। তারপর ঘর মোছার ন্যাকরা দিয়ে সোলেমান আমার স্বামী গলায় ফাঁস দেয়, রুহুল আমার স্বামীর দুই পা চাপ দিয়ে ধরে থাকে। পাশের বাসার মেয়ে জেবা চিৎকার শুনে বলে আন্টি কি হয়েছে। তখন আমি বলি এটা আমাদের স্বামী-স্ত্রীর ব্যাপার। তারপর রুহুল ও সোলেমান টেনে হেঁচড়ে আমার স্বামীকে স্বামীর ঘরের মধ্যে

নিয়ে যায়। আমিও তাদের পিছন পিছন যাই। সোলেমান ঘর মোছার লাইলন ন্যাকরা দিয়ে আমার স্বামীর গলায় ফাঁস দিয়ে বুকের উপর বসে থাকে, রুহুল আমার স্বামীর দুই পা চাপ দিয়ে ধরে থাকে। প্রায় ১০/১৫ মিনিট পরে আমার স্বামীর দেহ নিস্তেজ হয়ে যায়। তারপর তারা লাশ বস্তা ভরে রেখে যায়। তারপর আমি দরজা খুলে দিলে তারা দুইজন পালিয়ে যায়। এই আমার জবানবন্দী।”

The confessional statement of the accused Md. Ruhul Amin which was recorded by the PW12 on 22.11.2011 is reproduced below:

“একটি টাকার উপর কুলসুম নাহার (বিউটি) এর মোবাইল নম্বর পেয়ে প্রথম দিকে তাহার সহিত বিভিন্ন সময়ে কথা চলত। একপর্যায়ে তাহার সহিত সম্পর্ক তৈরী হইলে প্রথম রূপকথা সিনেমা হলের সামনে তাহার সহিত দেখা হয়। সেই সময় বিউটি টেকনিক্যাল কলেজের পাশে থাকত। বিউটির এক ছেলে সেতু ঢাকায় সিকিউরিটির চাকুরী করত। আর তাহার দুটি বিবাহিত কন্যা তাহাদের শ্বশুড় বাড়ী থাকত। আর এক ছেলে বিদেশে থাকে। আর বিউটির স্বামী খোকন লালনের অনুসারী ছিল। খোকন বিভিন্ন সময় বাহিরে থাকত। এ ফাঁকে আমি কয়েকবার বিউটির সহিত দৈহিকভাবে মেলামেশা করি। একটি বিউটি আমাকে বলল বাসা পরিবর্তন করা দরকার। তখন আমি আর বিউটি মিলে কালাচাঁদ পাড়ায় এক বাসা ভাড়া নিই। নতুন বাসায় বিউটির সহিত আমার কয়েকবার দৈহিকভাবে মিলন হয়। এক পর্যায়ে বিউটি আমাকে বলে যে, খোকনকে না সরালে আমাদের অসুবিধে হইবে। তখন খোকনকে কিভাবে মারা যায় সেই বিষয়ে আমি আমার বন্ধু সোলেমানের সহিত পরামর্শ করি। এক পর্যায়ে আমি ঘটনার দিন বিউটির বাসায় গিয়ে তাহার সহিত দৈহিক সম্পর্ক করে খাওয়া দাওয়া করি। পূর্বের কথামত আমি বিউটির নতুন বাসায় অবস্থান করা কালে রাত্রি বেলা এক সময় বন্ধু সোলেমান আসে। এরপর বিউটির স্বামী খোকনের বাড়ী ফেরার জন্য অপেক্ষা করতেছিলাম। খোকন বাড়ী ফিরে ঘরের ভিতরে

প্রবেশ করলে আমি ওঁৎ পেতে ছিলাম। এক পর্যায়ে খোকনকে মারার জন্য আমি খোকনের গলা হাত দিয়ে চেপে ধরি। খোকন পড়ে গেলে তাহার বুকের উপর বসিয়া গলা চেপে ধরি। এক পর্যায়ে আমার হাত অবশ হইলে সোলেমান খোকনের গলা চেপে ধরে আর আমি খোকনের পা চেপে ধরি। বিউটি খোকনের হাত ধরে রাখে। খোকন মারা গেলে খোকনের লাশ গুম করার জন্য বস্তায় ভরানোর জন্য চেষ্টা করিতেছিলাম। যখন খোকনের লাশ অর্ধেক ভরানো হয় তখন সোলেমান বলে যে, কে যেন বাথরুমের ছোট জানালা দিয়ে আমাদের দেখছে। একপর্যায়ে আমরা বিউটিকে বলি যে, পুলিশ আসতে পারে। তখন আমি আর সোলেমান বিউটির বাসা থেকে বের হয়ে যাই। রাস্তার মধ্যে মোবাইলে বিউটির সহিত কথা হইলে সে বলে যে, পুলিশ আসছে। এরপর বিউটির ফোন বন্ধ পাই। আমি আর সোলেমান ঘটনার পর সোলেমানের পাবনার স্ত্রীর বাসায় গিয়ে ফোন বন্ধ করে ঘুমাইয়া পড়ি। পরের দিন আমি বাড়ী যাই এবং পরে নানার বাড়ী যাই। এরপর ০৪ দিন পর সন্ধ্যায় ঢাকায় চলে যাই। সেখানে রং মিস্ত্রির কাজ করিতেছিলাম। ঢাকা থেকে পুলিশ আমাকে গ্রেফতার করে।”

The confessional statement of the accused Md. Soleman Hossain which was recorded by the PW14 on 11.10.2011 is reproduced below:

“আমার নাম সেলেমান, পিং-মোঃ ইয়াছিন মোল্লা, গ্রাম- রানীগাম, আতাইকুলা, পাবনা। আসামী রুহুল, পিং- আক্কাছ প্রাং আমার বন্ধু। রুহুলের সহিত কুলসুম নাহার বিউটি এর পরকিয়া প্রেম হয়। রুহুল আমার শ্রীপুর বাজারস্থ দর্জির দোকানে বসে প্রায়ই বিউটির সহিত আলাপ করিত। ঘটনার দিন অর্থাৎ গত জুন মাসের ৩০ তারিখে আমাকে রুহুল বলে যে, চল যাই বিউটির বাসায় বেড়াইয়া আসি। তখন তাহার কথা মতো বিকাল ৩টার দিকে পাবনা শহরের কালাচাদ পাড়া তোতা মিয়ার গলিতে বিউটির ভাড়া বাসাতে আসি। বাসায় আসিয়া রুহুলের সহিত খাওয়া দাওয়া করি। বিউটি আমাদের ভাত খাওয়ায়। খাওয়ার



পর বিউটি ও রুহুল এক রুমে থাকে আমি অন্য রুমে থাকি। এভাবে রাত্রী অনুমান ১১.০০ ঘটিকা পর্যন্ত অপেক্ষা করি। রাত্রী অনুমান ১১.৩০ টার সময় বিউটির স্বামী মোশাররফ হোসেন খোকন যখন বাহির হতে বাসার গেইট দিয়ে ঢোকে, তখনই রুহুল গিয়ে গলায় হাত দিয়ে চেপে ধরে। আর আমি গিয়ে পা ধরি। তারপর দুইজন মিলে খোকনকে ঘরে নিয়ে আসি। এরপর ন্যাকরা দিয়ে খোকনের গলায় চেপে ধরা হয়। কিছুক্ষনের মধ্যেই খোকন নিস্তেজ হয়ে যায়। তখন বিউটি আসিয়া পাশের রুমের তালা খুলে দেয়। আমরা খোকনকে সেই রুমে নিয়ে যাই গলায় দড়ি দিয়ে টানিয়া। এরপর গলার দড়ির সহিত হাত-পা বেধে বস্তার মধ্যে উঠাইয়া বস্তার মুখ বেধে ঘরের মধ্যে রাখা হয়। তারপর বিউটি গেইট খুলে দেয়। তখন আমিও পালিয়ে আসি। এই আমার জবানবন্দী।”

***Delayed Production and Confession of Kulsum: Whether justified?***

The accused, Kulsum, was initially arrested on 01.07.2011 at approximately 4:00 AM under Section 54 Cr.P.C., following the preparation of the inquest report, seizure list, and completion of other associated formalities. Consequently, she was required to be presented before the magistrate by 4:00 AM on 02.07.2011. However, as 02.07.2011 was a holiday, regular court proceedings were unavailable.

Recognizing the urgency of the matter, the police took immediate steps to produce her before the magistrate's official residence at the earliest opportunity. There was no wilful delay in her production, rather, the police acted in compliance with legal requirements by seeking an alternative means to ensure her timely presentation. The accused was not subjected to unlawful

detention or coercion, and there is no evidence to suggest that she was kept in custody beyond 24 hours with the intent to extract a confession.

Due to logistical and administrative constraints, the police reached the magistrate's residence at 1:30 PM on 02.07.2011. While this was technically beyond the 24-hour limit, it was the earliest feasible opportunity given the holiday. Our apex Court has consistently recognized that in exceptional circumstances, such as weekends or public holidays, minor delays in production do not render custody illegal. Given these practical difficulties, a reasonable delay made in good faith should not be deemed unjustified.

The magistrate, as a neutral authority, ensured that the confession was made voluntarily, without coercion, and after allowing sufficient time for reflection. When the accused's statement was recorded under Section 164 Cr.P.C., she did not allege any police influence or mistreatment. Furthermore, during her examination under Section 342 Cr.P.C., she did not raise any complaints of police torture or coercion while in custody.

Although Section 57 Cr.P.C. mandates that an accused must be presented before a magistrate within 24 hours, it has been repeatedly held that practical constraints, such as official holidays, can justify a reasonable delay. Since the police made arrangements to present the accused at the magistrate's residence at the first available opportunity, we do not find any harmful

effect on the accused-Kulsum and the detention has not illegal production before the magistrate and, hence, her subsequent confession under Section 164 Cr.P.C. remain legally valid. This position is supported by the case of *Hasmat Ali Vs. State*, 53 DLR 169.

Recording a confessional statement at the magistrate's official residence is legally valid, particularly in situations where court is not in session, such as on weekends or public holidays. The law does not mandate that such statements must be recorded only within court premises, so long as the magistrate is competent, acts independently, and ensures that the confession is made voluntarily and without coercion. Confessions recorded at a magistrate's residence can be valid when circumstances reasonably justify it, and the procedural safeguards under Section 164 Cr.P.C. are duly followed.

A thorough review of these confessional statements of Kulsum and Soleman reveal that the learned magistrates, PW11 and PW14 adhered substantially with all legal formalities. They administered the necessary statutory requirements, informing the confessing accused persons that they were not obligated to make any confessions and that such confessions, if made, could be used as evidence against them. Only after satisfying themselves that the accused were making their confessions voluntarily the magistrates, PW11 and PW14 proceeded with the recording of confessions. Accused Kulsum never raised any complaints of police torture.

The Counsel for the state defence contends that accused Soleman had filed a petition for retraction of his confession as the same was extracted to police torture, oppression and maltreatment. However, the evidence of the magistrates PW11 and PW14 do not indicate any physical injury on the accused persons at the time of recording their confessions. Furthermore, Soleman also did not raise any complaints of police torture or intimidation before the magistrate. This lends credence to conclusion that the confessions of both Kulsum and Soleman were voluntary truthful and inculpatory in nature.

There is nothing on record to suggest that the magistrates, PW11 and PW14, violated any material provisions of sub-section (3) of Section 164 Cr.P.C. while recording the confessional statements. On the contrary, the certificates appended to the confessions clearly reflect that the magistrates duly ensured the voluntariness of the statements in compliance with legal requirements.

During examination of under section 342 Cr.P.C. the accused Kulsum did not allege any police torture or coercion. This alliance with the precedent set in the case of *Khalil Mia Vs. State* reported in 4BLC (AD) 223, where our apex court has held that a confession specially brought to the notice of the accused under section 342 Cr.P.C. can be relied upon if no objection is raised.

***Accused Ruhul Amin in IO's Custody During Reflection: Confession Flawed?***

Mrs. Bubul Rabeya Banu, learned state defence counsel for the accused Md. Ruhul Amin and Md. Soleman Hossain, raises significant concerns regarding the voluntariness and truthfulness of the confessions made by the accused Md. Ruhul Amin. The core of the objection lies in the allegation that the accused was not given sufficient time for reflection prior to the recording of the confession, and more critically, that he was placed in the custody of the Investigating Officer, S.I. Md. Mojibur Rahman, during the 'reflection period'.

From the testimony of the magistrate (PW12), who recorded Ruhul's confession, it is evident that this accused was allowed more than two hours for reflection before making the statement. It is well established that there exists no fixed rule stipulating the exact duration of time to be afforded for reflection. Therefore, we are of the view that the time of over two hours, as provided in this case, is *prima facie* sufficient for the purpose of reflection.

However, a crucial irregularity emerges from the fact that the accused was placed in the custody of the Investigating Officer during the reflection period. Rule 79(4) of the Criminal Rules and Orders, 2009, explicitly provides that an accused intending to make a confession must not be placed in police custody during the period of reflection. This procedural safeguard exists to prevent any coercion, undue influence, or external pressure from the investigating agency upon the accused.

In light of this, it raises a valid concern regarding the voluntariness of the confession. Though the magistrate may have acted in good faith by providing adequate time for reflection, the decision to allow police custody during this crucial period undermines the credibility and admissibility of the statement. The presence of the IO during reflection creates a reasonable apprehension of inducement or compulsion, which directly contravenes the spirit of Rule 79(4). Accordingly, we consider that the confessional statement made by accused, Md. Ruhul Amin stands vitiated by this procedural impropriety and is, thus, liable to be excluded from evidentiary consideration.

***Delayed Retraction of Confessions: Legal Value?***

Accused Soleman made his confessional statement on 11.10.2011, but filed a retraction petition on 20.02.2012 i.e. more than four months later. With regard to this delayed retraction, reference may be made to the case of *Md. Shahid Islam @ Shahid vs. State*, reported in 8 BLT 150, where the court observed that a delayed retraction-particularly one made more than two months after the confession-casts serious doubt on the claim of coercion or duress. This principle is squarely applicable to the present case, where the delay in retraction by accused Soleman further weakens the credibility of his claim. In the Case of *Amir Hossain Howlader Vs. State*, reported in 1984 BLD (AD) 193, it was held that a retracted confession, like a confession not retracted, may be form the basis of conviction. In the present case, the confessions made by accused Kulsum and Soleman are not only consistent with the prosecution's narrative but are also

corroborated by other evidence on record. The testimonies of prosecution witnesses collectively establish the time, place, and manner of the incident, as well as the involvement of the accused persons.

The recovery of the dead body, the sequence of events, and the eyewitness accounts all lend further credibility to the confessional statements. These confessions, when considered alongside the corroborative evidence, meet the legal standard for voluntariness and truthfulness.

Based on the foregoing discussion and the materials on record, we are satisfied that the confessions made by accused Kulsum and Soleman were both voluntary and truthful. It is well-settled that a voluntary and truthful confession can form the sole basis for the conviction of its maker, even if it has been retracted at a later stage. In this regard, reliance may be placed on the case of *Ali Asgor and another vs. State*, reported in 1986 BLD 436.

***Use of One Inculpatory Confession Against All Implicated in a Joint Trial:***

Under Section 30 of the Evidence Act, the confession of a co-accused is admissible against others tried jointly for the same offence, provided it is supported by independent evidence. The section reads:

*“When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons*

*affecting himself and some others is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.”*

This provision enables the court to consider a co-accused's inculpatory confession not only against the maker but also against the other co-accused persons implicated, provided the confession is corroborated by other credible evidence.

In the case of *State vs. Mir Hossain @ Miru*, reported in 56 DLR 124, the court reiterated that the confession of a co-accused may justify conviction if corroborated by independent evidence, whether direct or circumstantial. Similarly, in *Austar Ali vs. State*, reported in 1998 BLD (AD) 43, it was held that such a confession, when affecting the maker and others, can be taken into consideration to lend additional assurance to other substantive evidence on record.

In the present case, accused Kulsum and Soleman made detailed inculpatory confessions narrating the sequence of events and describing the specific roles played by each of them, including co-accused Ruhul Amin, in the commission of the murder. These confessions are vivid, consistent, and self-incriminating. Importantly, they also implicate Ruhul Amin without any signs of contradiction or exaggeration.

The defence has failed to establish any personal motive, grudge, or animosity that could suggest Kulsum and Soleman had a



reason to falsely implicate Ruhul Amin. Their accounts independently and consistently describe Ruhul's participation in planning and executing the crime. In the absence of any motive to falsely accuse him, and considering the level of detail and harmony in their confessions, the implication of Ruhul Amin appears credible, voluntary, and truthful.

The confessions are further corroborated by the following:

1. Medical Evidence: The narratives in both confessions align with the post-mortem report provided by PW13, Dr. Md. Toriqul Islam, who confirmed that the victim died of asphyxia due to strangulation, which was homicidal in nature.
2. Physical Evidence: Multiple items belonging to Ruhul Amin, including a wallet, driving license, NID photocopy, Destiny-2000 privilege card, money exchange card, and a job seeker registration card bearing his photograph, were recovered from the house of accused Kulsum. These items were never explained by the defence, and their presence corroborates the accuseds' version of Ruhul's involvement and presence at the scene.
3. Conduct of the Accused: Ruhul Amin initially confessed, although his statement was ultimately disregarded due to procedural irregularities. However, his subsequent absconsion following bail, similar to that of Soleman, strongly suggests a consciousness of guilt.

Our apex court in the case of *Shukur Ali vs. State*, reported in 74 DLR (AD) 11, affirmed that a confession implicating both the maker and co-accused can be used against all, provided it is supported by other evidence. That standard is fully met in this case.

In the present case, as no eyewitness directly observed the murder, the prosecution bears the burden of establishing a complete chain of circumstantial evidence that unerringly points to the guilt of the accused. The discovery of the victim's dead body concealed in a sack within Kulsum's rented room. When asked by the prosecution witnesses about her husband, she attempted to conceal the crime and mislead the witnesses by claiming that her husband was not at home and had left following an altercation between them. This effort to conceal the truth, along with the discovery of the dead body, directly links accused Kulsum to the murder. Furthermore, the presence of accused Ruhul Amin's personal belongings found in the same room, lends significant support to the inference of his presence at the scene and his participation in the offence.

The motive behind the crime, as revealed through the testimonies of prosecution witnesses, centers on the illicit relationship between accused Kulsum and Ruhul Amin. The victim's opposition to this affair, coupled with the accused's intention to eliminate him as an obstacle, establishes a compelling motive for the murder.

Additionally, the presumption under Section 106 of the Evidence Act becomes relevant in this context. Since the murder occurred within Kulsum's rented premises, the burden of explaining how her husband was killed inside her room shifts to her. Her failure to offer any satisfactory explanation further corroborates the prosecution's case and reinforces the inference of guilt.

Both Ruhul Amin and Soleman, after securing bail, willfully evaded justice and remained fugitives, leading to their trial in absentia. Their immediate disappearance following the incident and continued evasion of arrest are highly incriminating.

In the case of *State vs. Saidul Huq*, reported in 8 BLC (2003) 132, it has been held that the flight of an accused following the occurrence, and their continued evasion of trial, are circumstances that may be considered as corroborative of guilt. Furthermore, Kulsum and Soleman voluntarily gave consistent confessions implicating Ruhul Amin. Ruhul, on the other hand, made no attempt to rebut these allegations and instead chose to abscond. This absence deprived him of the opportunity to contest the allegations. His silence, in the face of such serious charges, further strengthens the prosecution's case.

The defence could not offer any believable explanation for Ruhul and Soleman's prolonged absconsion, nor any credible refutation of the detailed confessional accounts of Kulsum and Soleman. Their absence during trial, and the failure to provide any counter-narrative, weigh heavily against them.

In light of the consistent, voluntary, and corroborated confessions of Kulsum and Soleman, the recovery of Ruhul's belongings from the crime scene, the post-mortem report confirming the cause and manner of death, and Ruhul's incriminating conduct in absconding, this Court finds ample reason to hold Ruhul Amin guilty in concert with the other accused. The use of the inculpatory confessions under Section 30 of the Evidence Act, when read with the supporting evidence on record, lawfully and reasonably implicates Ruhul Amin in the commission of the offence.

***Analysis of Evidence & Findings:***

From the testimony of PW2, it is evident that the victim had been married to the condemned prisoner, Kulsum Nahar Beauty, for 28 years. However, for the past two years, she had been engaged in an illicit affair with Ruhul, another accused, which included physical relations. When the deceased objected to this affair, tensions arose between him and his wife, Kulsum. Multiple witnesses (PW2, PW3, PW4, PW5, PW6, PW7, PW8, PW10, and PW15) saw the victim's body wrapped in a sack inside Kulsum's room. Given that the deceased was found in his wife's room, the burden of explanation shifted to Kulsum to account for his death. Instead of denying her involvement, she confessed to her role in the murder of her husband.

In her confession, Kulsum admitted that for nearly a year, she had been having an extramarital affair with Ruhul and had

maintained a physical relationship with him for a long time. Ruhul wanted to marry her, but her husband, Mosharraf Hossain Mridha alias Khokon, was an obstacle. As a result, she and Ruhul conspired to kill him. According to their plan, on 30.06.2011 at approximately 4:00 PM, Ruhul arrived at a house, and later that evening, at around 8:30 PM, Ruhul's friend, Soleman, also came to Kulsum's rented house. Shortly after, Kulsum served them dinner. After the meal, they turned off the lights in her husband's room and hid.

At around 11:00-11:30 PM, Kulsum's husband returned home and, after locking the main gate, went to the veranda to park his bicycle. As he was about to enter his room, Ruhul and Soleman ambushed him, throwing him to the ground. Soleman strangled him with a floor-cleaning cloth while Ruhul restrained his legs. During the commotion, a neighbor, Jeba, inquired about the noise. Kulsum dismissed her concerns, saying it was a private matter between husband and wife. Ruhul and Soleman then dragged the lifeless body into the victim's room, with Kulsum following closely behind. Inside, Soleman tightened a nylon cloth around the victim's neck and sat on his chest, while Ruhul continued to hold down his legs. After 10-15 minutes, the victim was dead. They then placed the body inside a sack. Kulsum opened the door, and both of them fled the scene.

Similarly, Soleman, in his confession, corroborated the sequence of events. He stated that after dinner, they waited for the victim to return. At around 11:30 PM, as Mosharraf Hossain Khokon

entered the house, Ruhul immediately grabbed him by the neck and began choking him. Soleman held the victim's legs while they forcibly restrained him and gained control over his movements. They then dragged him inside and strangled him with a cloth. Within moments, the victim became lifeless. At that point, Kulsum unlocked the adjacent room, and they moved the body inside. They tied the victim's hands and feet with the same rope they had used to strangle him, placed the body inside a sack, and sealed it. Kulsum then opened the gate, allowing the perpetrators to flee.

Kulsum's confession was made after the FIR had been lodged. Had she not disclosed the facts in the presence of those who entered the room and discovered the dead body, the informant would not have become aware of the circumstances described in the FIR. The details of the confession align entirely with the inquest and postmortem findings, as well as the recovery of incriminating articles, which corroborate the nature of the injuries and the cause of death. Furthermore, the confessions are consistent with the testimonies of prosecution witnesses, forming an unbroken chain of circumstantial evidence. As such, the confessions of Kulsum and Soleman are found to be lawful, voluntary, truthful, and inculpatory in nature.

PW 2 in his FIR, stated that upon entering the room and discovering the dead body, the informant questioned Kulsum, who then disclosed her extramarital relationship with Ruhul. She admitted that since the victim had discovered the affair and

objected to it, she conspired with Ruhul to eliminate him to remove the obstacle to their illicit relationship. PW3 testified that upon entering the house, they found Kulsum present. When they inquired about her husband's whereabouts, she claimed he was not in home. However, due to suspicion, they entered the victim's room along with the police (PW15). Initially, they did not see anything unusual, but when Amin (who later passed away before giving his deposition) touched a sack placed near the door, he sensed the presence of human feet inside.

However, during inspection, the victim's dead body was discovered inside a jute sack near the sofa. Moreover, her actions in clearing a path for the other two accused to flee strongly suggest that she was not only one of the masterminds but also an active complicit in the crime. These facts, when considered together, leave no alternative but to conclude that Kulsum was directly involved in the murder.

The evidence in this case firmly establishes that all three accused acted with a “common intention”, premeditated and executed the murder in concert. Their individual roles and active participation, as demonstrated by the prosecution, meet the required threshold of proof for securing a conviction in a criminal trial.

The prosecution has presented strong and admissible evidence, which includes the following:

1. The confessions of accused Kulsum and Soleman, recorded by PW11 and PW14 respectively.

2. The recovery of the victim's body from Kulsum's residence, wrapped in a jute sack.
3. Recovery of Ruhul's belongings from Kulsum's residence are: a chocolate-colored wallet, Ruhul's driving license, a photocopy of Ruhul's NID, a Destiny-2000 LTD Point Privilege Card bearing Ruhul's photograph, a money exchange card, a Job Seeker Registration Card with Ruhul's photograph etc.
4. The body was found tied with nylon rope and wrapped in a quilt, suggesting an attempt to conceal the crime.
5. The injuries and cause of death, which are consistent with the inquest and post-mortem reports, align with the narratives provided in the confessions.

In the case of *State Vs. Ali Ahmed* reported in 43 DLR (AD) 102, it was held that the recovery of incriminating materials from the possession of the accused provides direct evidence of their involvement in the crime. In this case, the prosecution has established an unbroken chain of circumstantial evidence that directly ties the accused persons to the crime scene, apart from the confessions.

Upon careful analysis of the evidence on record, it is evident that the date, time, and manner of the crime have been thoroughly established. The consistent testimonies of the prosecution witnesses, supported by the inquest and post-mortem reports,



form a coherent narrative that leaves no room for doubt. The corroborative nature of the testimonies, coupled with the physical evidence, unequivocally proves the culpability of the three accused persons. This chain of evidence and consistent narrative makes it clear that this premeditated, gruesome murder was committed by all three accused with a common intention.

Thus, we find that the prosecution has successfully proved its case against the accused persons beyond any reasonable doubt. Consequently, we see no reason to interfere with the decision of the Tribunal regarding their guilt under Sections 302/34 of the Penal Code. While the crime committed is severe, and the accused persons certainly deserve a harsh punishment, it is important to note that none of the three accused have any prior criminal records, as indicated in the charge sheet. Furthermore, taking into account their socio-economic conditions and the objective of punishment, life imprisonment, which is an equally severe penalty as the death sentence, seems appropriate. Imprisonment for life offers the possibility of reform for the offenders while still ensuring that justice is served.

***The Consequence:***

- (a) The Death Reference No.04 of 2018, in respect of the convicts- (1) Most. Kulsum Nahar Beauty, wife of late Mosharaf Hossain Mridha @ Khokon, daughter of late Golam Mohammad of village-Gopalpur Isahaq Mollah Lane, Police Station- Pubna Sadar, District-Pabna; (2) Md. Ruhul Amin (absconding), son of Md. Akkash Ali

@ Aku Prank (Pramanik); and (3) Md. Soleman Ali (absconding), son of Md. Yeasin Mollah, both of Village-Ranigram, Police Station- Ataikula, District-Pabna, is hereby rejected and the connected Criminal Appeal No. 887 of 2025 (arising out of Jail Appeal No.23 of 2018) of Most. Kulsum Nahar Beauty is dismissed. The sentences of death as imposed upon them by the learned Judge of Druto Bichar Tribunal, Rajshahi in Druto Bichar Tribunal Case No. 07 of 2016 are **hereby commuted to imprisonment for life** with a fine of Tk.20,000 (twenty thousand) each, in default to suffer rigorous imprisonment for 1(one) month more;

- (b) The authorities concerned are directed to secure arrest of the absconding convicts- (1) Md. Ruhul Amin, son of Md. Akkash Ali @ Aku Prank (Pramanik), and (2) Md. Soleman Ali, son of Md. Yeasin Mollah to compel them to serve the sentences of imprisonment for life;
- (c) The authorities concerned, including the jail authority are directed to transfer the condemned prisoner Most. Kulsum Nahar Beauty, wife of late Mosharaf Hossain Mridha @ Khokon, daughter of late Golam Mohammad, from the condemned cell to the general prison at once; and

- (d) The convicts will get the benefit of Section 35A Cr.P.C. and other remissions as permissible under the Jail Code.

The Office is directed to send down the records together with a copy of this judgment at once.

**(Justice Md. Toufiq Inam)**

**J.B.M. Hassan, J:**

I agree.

**(Justice J.B.M. Hassan)**

Syed/BO.

Ashraf/ABO.