

In the Supreme Court of Bangladesh  
High Court Division  
(Criminal Appellate Jurisdiction)

**Present:**

Mr. Justice S M Kuddus Zaman

And

Mr. Justice Md. Aminul Islam

**Death Reference No. 114 of 2017.**

**IN THE MATTER OF**

The State

.....Petitioner.

-Versus-

Milon Mondal

.....Condemned-prisoner.

with

Criminal Appeal No. 9683 of 2017.

Milon Mondal

.....Condemned-prisoner-appellant.

-Versus-

The State

.....Respondent.

with

Jail Appeal No. 369 of 2017.

Milon Mondal

....Condemned-prisoner-appellant.

-Versus-

The State

.....Respondent.

Mr. Sujit Chatterjee, D.A.G. with

Ms. Farhana Afroze Runa, A.A.G.

Mr. Md. Abdul Aziz Masud, A. A. G.

Mr. Md. Shamim Khan, A.A.G.

...For the State.

Mr. S.M. Shahjahan, Senior Advocate with

Mr. Sheikh Rezaul Karim, Advocate

Mr. Md. Shafeul Alam, Advocate

....for the Condemned-prisoner.

Mr. S.M. Shahjahan, Senior Advocate with

Mr. Sheikh Rezaul Karim, Advocate

Mr. Md. Shafeul Alam, Advocate

.....for the appellant.  
(In Criminal Appeal No.9683 of 2017)

Mrs. Sabina Sipra Das, Advocate  
.....for the appellant.  
(In Jail Appeal No. 369 of 2017)

**Heard on: 09.11.2023 and**  
**Judgment on: 16.11.2023.**

**Md. Aminul Islam, J:**

This death reference under section 374 of the Code of Criminal Procedure, 1898 has been submitted by the learned Session Judge, Madaripur for confirmation of the sentence of death inflicted against the accused person namely Milon Mondal after convicting him in Sessions Case No.86 of 2017 arising out of Dashar Police Station Case No.04 dated 18.09.2016 corresponding to G.R. No.62 of 2016 under Section 302 of the Penal Code, 1860.

The Criminal Appeal No.9683 of 2017 arising out of Jail Appeal No.369 of 2017 preferred by the condemned prisoner Milon Mondal is also directed against the above judgment and order of conviction and sentence dated 21.08.2017.

Above mentioned Death Reference, Criminal Appeal and Jail Appeal having arisen out of the identical judgment and order of conviction and sentence of death passed by the

learned Session Judge, Madaripur in Sessions Case No.86 of 2017 and involved identical questions of facts and laws all above Death Reference, Criminal Appeal and Jail Appeal are heard together and being disposed of by this single judgment.

The prosecution case, in short is that Informant Nirmal Mondal lodged an Ejahar with the Dashar Police Station, Madaripur on 18.09.2016 alleging that his daughter namely Neetu Mondal (14) was a student of Class IX at Nabagram High School, Dashar, Madaripur was subjected to continuous eve teasing by accused Milon Mondal. On receipt of above allegation from victim Neetu the informant requested the father of accused Milon to stop him from harrassment of his girl. Accused Milon became ferocious and made a plan to commit murder of victim Neetu and on 18.09.2016 at 9:15 a.m. when on her way to school victim Neetu reached on the pacca road at the Northern side of residence of Santosh Adhikary, accused Milon Mondal struck several knife blows at the chest, middle of abdomen, right thigh, back side of hip and right hand finger causing her death. Kamala Adhikary and Ashutosh Adhikary saw above occurrence of murder and raised alarms and the

accused fled away abandoning the knife. The police personal rushed to the residence of informant and prepared inquest report of the dead body and sent the dead body to the morgue of Sadar Hospital, Madaripur for Post Mortem.

The investigation of the case was assigned to P.W.16 Md. Bayejid Mridha, a Sub-Inspector (S.I.) of Police who on conclusion of investigation submitted charge sheet against the accused namely Milon Mondal under section 302 of the Penal Code.

The case was sent to the Court of Sessions Judge, Madaripur for trial. The learned Sessions Judge framed charge under section 302 of the Penal Code against the accused. The charge was read over to him, to which he pleaded not guilty and claimed to be tried as per law.

In order to prove the charge, prosecution examined 18 (eighteen) witnesses and they were cross examined by the defence.

On closure of the prosecution evidence the accused person present in the court was examined under section 342 of the Code of Criminal Procedure, wherein the incriminating evidences were brought to his notice and consequence thereof was explained to him. The accused

person present in the Court pleaded him innocent and declined to adduce any evidence in his favour through defence witness. The defence plea as he is quite innocent having been falsely implicated in the case. Having considered the facts and circumstances the further case of defence is that the confession of accused Milon Modal is not true and voluntary.

On consideration of the facts and circumstances of the case and the evidences on record the learned Sessions Judge of Madaripur found the accused person guilty of the offence under section 302 of the Penal Code and accordingly convicted him thereunder and sentenced the accused Milon Mondal to death.

Being aggrieved by and dissatisfied with the impugned judgment and order of conviction and sentence dated 21.08.2017 passed by the learned Sessions Judge, Madaripur, condemned prisoner Milon Mondal as appellant preferred Criminal Appeal No.9683 of 2017 and Jail Appeal No.369 of 2017.

Mr. Sujit Chatterjee, the learned Deputy Attorney General appearing in support of the reference submits that the occurrence took place in the broad daylight in presence

of witnesses. The prosecution in order to prove the charge, examined eye witnesses and proved the confession made by the condemned prisoner before the learned Senior Judicial Magistrate, Madaripur as true and voluntarily made. He also submits that the manner of the occurrence of murder as narrated by the eye witness P.W 3 has been corroborated by the confession of the accused made under section 164 of the Code of Criminal Procedure, the inquest report, and post mortem report as well as the evidences of PW 2, P.W. 6, P.W.7 and P.W.13.

The learned Deputy Attorney General further submits that the accused appellant was caught red handed by the P.W.13, P.W.14 and others local people and handed over to the local police on 18.09.2016. The condemned prisoner made confessional statement under section 164 of the Code of Criminal Procedure before the learned Magistrate. The confessional statement is voluntary and true and inculpatory in nature. He further submits that at the showing of the accused the knife which was used in the murder was recovered from the pond in presence of witnesses. The prosecution has been able to prove the charge leveled against accused Milon Mondal under section 302 of the

Penal Code, 1860 without any reasonable doubt. He referred to the case of Abdul Quddus Vs. The State, reported in 43 DLR (AD) 234.

Mr. S.M. Shahjahan, learned Senior Advocate along with Mr. Sheikh Rezaul Karim and Mr. Md. Shafeul Alam appearing for the Condemned prisoner submits that the witnesses, who are examined, interrelated and interested witnesses and it is not safe to convict the accused on the basis of evidence of such interested witnesses. The only alleged one eye witness namely Kamala Adhikary P.W.3, the P.W.2 came at the place of occurrence immediate after occurrence and P.W.4, P.W.5 being hearsay witnesses and their evidences are not at all reliable. They did not really accompanied the victim. He further submits that this is not a case where the sentence of death is appropriate, even it is assumed that the condemned prisoner is found to be involved in the occurrence. He lastly submits that the condemned prisoner is only 21 years of age and that accused Milon and victim Neetu were in love affairs for a long time but the accused felt to be betrayed. As such the death sentence is not called for in the facts of the present case. He referred to the case of Raya Ram Vs. Emperor

complainant opposite party, reported in AIR 1935 Oudh 239.

Mrs. Sabina Shipra Das, the learned Advocate appearing for the Jail Appeal and submits that the condemned-prisoner was innocent and he was falsely implicated in this case. She also submits that the Investigating Officer tortured the condemned prisoner and he was forced to make a confession which was not true. As such above confession cannot be a lawful basis for conviction and sentence against accused Milon.

Heard the learned Deputy Attorney General as well as the learned Defence Advocates at length, perused the impugned judgment and order along with other materials on record and also considered the facts and circumstances of the case apparently.

With a view to arrive at a correct decision in the Death Reference, we are now called upon to examine the relevant evidences on record along with the attending and surrounding facts and circumstances of the case.

P.W.1 Nirmol Mondal is the informant of this case and father of victim Neetu. He stated that his daughter Neetu Mondal was a student in Class IX at Nabagram High



School. She was of about 14 years old. The accused subjected her to continuous sexual harassment on her way to school. His daughter told him about the matter. He informed that matter to the guardian of the accused but the accused became furious. On 18.09.2016 at 9:15 victim Neetu set out for school when she reached on the pacca road at the Northern side of Santosh Adhikari's home. The accused murdered her by repeated dagger blows on the abdomen, below the chest, on the right leg, on the back and old finger of the right hand. P.W.3 Kamala Adhikary saw the commission of above murder of victim Neetu P.W.2 Ashutosh Adhikary came to the place of occurrence and accused Milon Mondal threw the knife in the canal and ran away. Dasar police came to the place of occurrence performed inquest report of the dead body and sent the same for autopsy. The witness proved the ejahar and his signature on the same which were marked as Exhibit-1 and 1/1 respectively. Police prepared the inquest report of his daughter's body and he put his signature on the inquest report which were marked as Exhibit-2 and 2/1 respectively.

In cross-examination he stated that he did not see the occurrence of murder of his daughter. The accused disturbed his daughter before the alleged occurrence. He requested to stop the said harassment to the father of the accused before eight days prior of the occurrence. The victim had died at the place of occurrence. It is not a fact that there is no canal near the side of occurrence. Kamala Adhikary stayed 20 yards far away from the place of occurrence. Kamala Adhikary was washing dishes in the nearby Ghat. It is not a fact that Kamala Adhikary has not seen the occurrence. It is not a fact that nothing happened as alleged occurrence. It is not a fact that the accused did not kill the victim. It is not true that he gave false evidence in a false case.

P.W.2 Ashutosh Adikary stated that he knew the informant and his daughter Neetu Mondal (the victim). The accused Milon Mondal was identified in the dock. The alleged occurrence took place on the road and beside the canal about 200 yards away on the north side of his home. On 18.9.16 at 9:15 a.m. his brother's of daughter Kamala heard hue and cry from canal Ghat. After hearing hue and cry he went to the place of occurrence and saw Milon

Mondal was running away from the place of occurrence. He asked accused Milon Mondal as to what had happened there and the accused told him that to see in his own eyes. He saw victim Neetu Mondal was lying in the Canal of water. Then Pratul Mondal, Liton Mondal came and they retrieved victim Neetu Mondal from water. He found marks of injuries on her chest, abdomen, right thigh and old finger of her right hand. They found the victim was dead. Kamala Adhikary told him that the accused Milon Mondal killed the deceased Neetu Mondal. He told the above facts to the informant (P.W.1).

In cross-examination he stated that the road is behind his home and he rushed to the road and saw the accused was running away. He saw the occurrence with his own eyes. He denied that he was giving false testimony being the relative of the informant.

P.W.3 Komola Adikary stated that she studied at Nabagram High School in Class VI. She knew the informant Nirmal Mondal and the deceased Neetu Mondal. She identified the accused Milon Mondal in the dock. She was washing her face at the canal of Ghat on 18.08.2016 at 9:15 a.m. Then she saw accused Milon Mondal struck

repeated dagger blows on the body of the deceased Neetu Mondal causing several cut injuries. Again the accused stabbed to victim Neetu Mondal tried to protect her herself by hand and she received further cut injuries. She raised alarms and called her uncle Ashutosh and who rushed to the place of occurrence. The accused threw the knife into the pond and ran away.

In cross-examination she stated that she saw the occurrence from a distance of approximately 40 hands. Deceased Neetu Mondal had no love relationship with accused Milon Mondal.

P.W.4 Nipa Mondal, Mother of victim Neetu stated that at the time of occurrence her daughter was a student of class IX and before three days of alleged occurrence the victim disclosed to her that the accused Milon Mondal disturbed her for making relationship and he also made a bad proposal to her and she forbidden the accused for doing so but the accused became furious. On 18.09.2016 at 9:15 a.m. her daughter left the residence to go to school and while she reached at the pacca road, situated at the northern side of residence of Ashutosh Adikari, the accused in a preplanned manner brutally killed the victim by making

several knife blows at different parts of her body. P.W.3 and P.W.2 namely Kamala Adhikari and Ashutosh Adhikari respectively saw the occurrence of murder.

In cross-examination she stated that she did not see the occurrence. She went to the place of occurrence immediately the occurrence.

P.W.5, Bikash Bariy stated that the informant was known to him. He was acquainted with deceased Neetu Mondal and accused Milon Mondal who was present in the dock. Accused Milon Mondal on 18.09.2016 at 9:15 a.m. brutally killed the victim Neetu Mondal by striking several knife blows on the pacca road, situated at the northern side of residence of Santosh Adhikari. He came to the place of occurrence after getting above news through mobile phone and he saw the dead body of deceased. The police on 18.09.2016 prepared seizure list and seized a coffee colour school bag, one pair of ladies sandal and with blood stained cross belt of school dress and he put his signature in the seizure list. The witness proved the seizure list and his signature on the same which were it marked as Exhibit-3 and Exhibit-3/1 respectively. He also proved the above alamots, marked as material Exhibit-I series.

In cross-examination he stated that the alleged bag was recovered from the place of occurrence. The police recovered the alleged knife from the pond in his presence and he denied the suggestion that he falsely deposed in this false case.

P.W.6, Probin Mondal deposed that the informant was known to him and he acquainted with deceased Neetu Mondal and the accused Milon Mondal who was present in the dock. He stated that the alleged occurrence took place on 18.09.2016 at 9:15 a.m. on the pacca road, situated at the northern side of residence of Shantosh Adhikary and the alleged date and time he was going to Nabagram Bazar by using the road passed behind the residence of Ashutosh Adhikary and at the time of passing the place of occurrence he heard hue and cry from the place of occurrence and accordingly he came to the place of occurrence and saw the dead body of deceased Neetu Mondal and he along with Liton Mondal lifted up the dead body from the canal and he saw knife blows received on her stomach, chest, thigh, surface of body, and old finger of right hand of deceased and witness Kamala Adhikary and Ashutosh disclosed to

them that the accused Milon Mondal brutally killed the deceased by several knife blows.

In cross-examination he stated that he came to the place of occurrence after hearing hue and cry and he heard alleged occurrence from the witness Kamala Adhikary and Ashutosh Adhikary.

P.W.7, Liton Mondol deposed that he knew the informant and he acquainted with deceased Neetu Mondal and the accused Milon Mondal was present in the dock and we belonged to the same home as the accused and the alleged occurrence took place on 18.09.2016 at 9:15 a.m. on the pacca road, situated at the northern side of residence of Santosh Adhikary and at the time of alleged occurrence he was returning home from Nabagram Bazar and while he reached near to the residence of Ashutosh Adhikary heard hue and cry from the place of occurrence and accordingly he started to come to the place of occurrence and on the way he saw the accused Milon Mondal and at that time he killed the victim Neetu Mondal and he was running away from the place of occurrence and he went to the place of occurrence and picked up the body from the canal with Probin and Ashutosh and saw several knife blows injury

receive on the chest, stomach, right thigh and old finger of right hand and they carried out the dead body of victim at the residence of informant.

In cross-examination, he stated that he saw the accused to flee away from the place of occurrence and he went to the place of occurrence immediate after incident and he deposed before the Investigating Officer.

P.W.8, Constable Md. Forhad Hossain stated that on 19.09.2016 was posted in the same station and in the same post as constable and on the date of occurrence he went to the place occurrence with S.I. Bayzid and recovered the alleged knife which was used to kill the deceased as per showing of the accused from the pond in presence of the witnesses and prepared seizure list on 19.09.2016 and he also put his signature which was marked as Exhibit-4 and Exhibit-4/1 respectively and he has proved the alleged knife material Exhibit-II.

In cross-examination, he stated that the alleged occurrence took place on 18.9.2016 and the accused killed the deceased by using seized knife. It is not a fact that the alleged knife did not recover to showing of the accused. The alleged knife did not conceive any sign of blood.



P.W.9, Constable Delower Hossain stated that he was posted as constable at Dasher Police Station, Madaripur and on 18.09.2016 he was posted in the same post and in the same station and on that date he came to the place of occurrence with S.I. Delower and he saw the dead body of Neetu Mondal and S.I. Delower after preparing inquest report through him sent the dead body of deceased to the morgue of Sadar Hospital, Madaripur for Post Mortem and the same was received the dead body of deceased from the hospital authority and accordingly he carried out the dead body of deceased to the residence of informant and thereafter S.I. Bayzid on 18.09.2016 by preparing a seizure list and seized a tear portion of blood stained kamij, a piece of tear blue colour school dress, blood stained one piece tear salawar, one white colour blood stained scruff, one brown colour, blood stained tear bra and he also put his signature on the seizure list dated 18.09.2016 which was marked as Exhibit-5 and his signature thereon Exhibit-5/1 and he proved the seized alamats material Exhibit-III-series.

In cross-examination, he stated that he reached at the place of occurrence at 10:00 a.m. He went to the morgue

with the dead body from the place of occurrence at 1:00 p.m. It is not a fact he falsely deposed in false case.

P.W.10 Julhas Sardar, he stated that he knew the informant and he acquainted with the deceased Neetu Mondal and identified the accused Milon Mondal in the dock and he is an employee of Chader Alo Co-Operative Credit Union, South Dasher and on 18.09.2016 at 10:00 a.m. he came to know over mobile phone that Neetu Mondal was killed and accordingly he came to the residence of informant by Motorcycle and he saw the dead body of victim at the court-yard and the dead body conceived several injuries and the local people disclosed him that the accused Milon Mondal killed the victim for refusal to make relationship with him and on 19.09.2016 the police personal prepared the inquest report and also prepared seizure list in his presence and he put his signature which was marked as Exhibit-2/2 and 4/2 respectively.

In cross-examination he stated that he did not see the occurrence but he heard the same from the witnesses in details and he deposed before the investigating officer as well as deposed before the court.

P.W.11, Gopal Barai deposed that he knew the informant and he acquainted with the deceased Neetu Mondal and the accused Milon Mondal was identified in the dock and on 18.09.2016 at 9:00 a.m. he received an information to the effect that accused Milon Mondal killed the victim Neetu Mondal by making several knife blows and accordingly he went to the pacca road situated at the northern of residence of Shantosh Adhikary and saw the dead body of deceased and from that place the dead body was sent to the residence of informant and S.I. Bayzid prepared seizure list and seized the wearing clothes of deceased in his presence and he put his signature marked as Exhibit-3/2.

In cross-examination he has replied that the alamot was seized at the informant house and he did not see the scenario of murder with his own eyes.

P.W.12, Nitish Mondol deposed that he knew the informant and the deceased Neetu Mondal was acquainted with him and the accused Milon Mondal identified in the dock and on 18.09.2016 at 9:00 a.m. he was in his residence and he received information from the informant that the accused Milon Mondal made several knife blows to the

victim Neetu Mondal and accordingly he went to the place of occurrence and saw the victim with several mark of injuries and she died then they carried out the dead body of deceased to the residence of informant.

In cross-examination, the informant is his nephew and he did not see the occurrence. He went there after hearing of the occurrence.

P.W.13, Robi Shonkor Barai deposed that he was elected member of Ward No.6 of Nabagram Union Parishad and he knew informant and deceased Neetu Mondal acquainted to him and accused Milon Mondal was identified in the dock and the alleged occurrence took place on 18.09.2016 at 9:15 a.m. and at the time of alleged occurrence he was in Nabagram Bazar and that time he came to know from the local people that the accused Milon Mondal brutally killed Neetu Mondal by fatal blow and after getting above news without any delay he went to the residence of informant and saw the blood stained dead body of victim and there were several marks of injury on her chest, abdomen, hand and back of the body and the people present there disclosed to him that the accused Milon Mondal killed the victim on the pacca road, near the

residence of Shantosh Adhikary and the granddaughter of Shantosh Adhikary namely Kamala Adhikary saw the alleged occurrence and after that they caught red handed accused and handed over to the police personal and on 19.09.2016 the alleged knife was recovered from the pond near to the place of occurrence as per showing of the accused and the police seized the alleged knife by preparing a seizure list and he also put his signature on it which was marked as Exhibit-4/2 and the police also by preparing a seizure list on 18.09.2016, seized the school bag, one pair of sandal, cross belt of school dress and school dress of the victim and he also put his signature marked as Exhibit-3/3.

In cross-examination he has replied that he did not see the occurrence and he deposed before the court by heard the same. It is not a fact that there is no sign of injury to the wearing clothes of the victim. It is not a fact that the alleged occurrence was not happened.

P.W.14, Enayet Sheikh deposed that he knew informant and deceased Neetu Mondal acquainted to him. He also knew the accused Milon Mondal and the accused Milon Mondol was identified in the dock. At the time of occurrence he was in Nabagram Bazar and he came to know

from the local people that the accused Milon Mondal killed the victim. Accordingly he went to the residence of informant and saw the dead body of Neetu Mondal and the dead body conceived several marks of injuries and the witnesses of Kamala Adhikary saw the alleged occurrence in her own eyes and they caught red handed the accused and handed over to the police personal and the police prepared a seizure list on 19.09.2016 and seized the wearing clothes of deceased and he put his signature marked as Exhibit-5/2.

In cross-examination he has replied that he heard the occurrence and after hearing he signed the seizure list and the police read out the contents of seizure list to him. It is not a fact that he falsely deposed in a false case.

P.W.15, Dr. Shoshanka Chandra Gosh stated that he was R.M.O. of Sadar Hospital Madaripur at the time of deposition and on 19.09.2016 he was posted in the same Hospital and in same position. He stated that on 19.09.2016 he performed post mortem examination of dead body of victim Neetu Mondal and found following injuries: (1) Sharp cutting injury over upper abdomen transversely 3½'' x 2''x up to pericardium and lungs penetration (2) Cut injury over right iliac region of abdomen 1½''x 1''x

Penetrating with omentum injury (3) Cut injury over right sapulla 2''x 1'' x up to bone at the dead body of deceased Neetu Mondal. On dissection in his opinion the cause of death was due to shock and hemorrhage resulting from cumulative effect of the above mentioned injuries, which was antimortem and homicidal in nature and accordingly on 19.09.2016 all the members of board unanimously opinion prepared the post mortem report and as one of the member of board he also put his signature in the post mortem report marked as Exhibit-6 and his signature thereon Exhibit-6/1.

In cross-examination he has replied that they got three injuries as stated in post mortem report. There are three injury in the same nature and he did not say whether the above injuries has been caused by same weapon. The alleged injuries were done by sharp cutting weapon and there is no column in the form of the post mortem to mention the age of injury.

P.W.16, S.I. Bayzid Mridha stated that he was posted as S.I. at Dashar Police Staion, Madaripur and on 18.09.2016 the Officer-in-charge of the Police Station registered the case and he appointed to the investigation in the instant case and on 18.09.2016 at 13:25 p.m. he came to

the place of occurrence and prepared the sketch map and index of the place of occurrence in different sheets and accordingly he put his signatures in sketch map marked as Exhibit-7 and Exhibit-7/1 respectively and in index marked as Exhibit-8 and his signature on it marked as Exhibit-8/1 and S.I. Delwar Hossain of his police station prepared the inquest report of dead body and he seized a brown colour school bag, one pair of scandle, blood stained cross belt of school dress and blood stained soil by preparing a seizure list and he put his signature marked as Exhibit-3/4 and he recorded the statements of witnesses under section 161 of the Code of Criminal Procedure and the local people caught red handed the accused on 18.09.2016 and handed over to him on 19.09.2016 he along with the accused came to the place of occurrence and as per showing of accused he recovered a knife from the pond of Shantosh Adhikary which was used to kill the victim and after interrogation forwarded the accused before the court and the accused made confessional statement under section 164 of the Code of Criminal Procedure before the Senior Judicial Magistrate, Madaripur and accordingly on that date by preparing a seizure list he took the said knife at his custody



and he also put his signature marked as Exhibit-4/3 and he collected the post mortem report of the deceased and after investigation he got prima facie case against the accused and accordingly on 22.01.2017 he submitted charge sheet.

In cross-examination he stated that the informant lodged an Ejahar by hearing the same from the witnesses and the Ejahar conceives the explanation for killing the victim. The residence of Shantosh Adhikary was not shown in sketch map. It is not a fact that there was no pond at the northern side of residence of Shantosh Adhikary and the accused was forwarded at 11:25 a.m. before the Judicial Magistrate for making confessional statement under section 164 of the Code of Criminal Procedure and the learned Court sent to him into the jail custody. On 19.09.2016 he seized the knife and prepared seizure list by sitting at the place of occurrence. It is not a fact that he submitted charge sheet in the instant case without conducting a proper investigation and he falsely deposed in a false case.

P.W.17, Fouzia Hafsa stated that she was posted as Senior Assistant Judge, Legal Aid Office, Tangail and on 19.09.2016 she was posted as Senior Judicial Magistrate, Madaripur and on the same day at 3:50 p.m. Sub-Inspector

of Dashar Police Station produced the accused Milon Mondal before her for recording the confessional statement under section 164 of the Code of Criminal Procedure and after observing all the legal formalities and recorded the confessional statement of the accused at 6:30 p.m. and ended the same at 8:00 p.m. and she read out the confessional statement to the accused and the accused after knowing the same as correct on put his signature in the respective columns and after that she also put her signature in the respective columns of statement marked as Exhibit-9 and her signature thereon marked as Exhibit-9/1-series and the signature of accused marked as Exhibit-9/2-series and the accused was present in the dock.

In cross-examination she has replied that before recording of confessional statement she asked the question to the accused as per law and the accused voluntarily made the confessional statement and she recorded the confessional statement of the accused beyond her office hour and after recorded the confessional statement sent to the jail custody to him. She asked the question to the accused about the alleged occurrence and she wrote down the confessional statement as per exact version of the

accused. It is not a fact that at the time of recording of confessional statement the accused was ill and it is also not a fact that she recorded the confessional statement of the accused without observing legal formalities.

P.W.18, S.I. Delower Hossain stated that he was posted as S.I. at Dashar Police Station, Madaripur and on 18.09.2016 he was officer-in-charge and lodge a G.D. Entry of the police station on 18.09.2016 he along with his companion forces came to the residence of informant and he prepared the inquest report of the dead body of deceased Neetu Mondal and he put his signature marked as Exhibit-2/3 and on 18.09.2016 at 11:00 a.m. the dead body of deceased sent to the morgue for autopsy through a chalan which was marked as Exhibit-10 and his signature thereon marked as Exhibit-10/1.

In cross-examination he has replied that he came out from the police station in pursuance of G.D. No.551 dated 18.09.2016 and he came out from the police station at 9:45 a.m. and he reached at the residence of informant at 10:15 a.m. and the dead body in all conceived seven injuries.

Upon a careful scrutiny of the evidences of the aforesaid prosecution witnesses it appears that P.W.1, he is

an informant and father of the deceased of this case. His daughter Neetu Mondal was a student in Class IX at Nabagram High School. She was age about 14 years old. The accused offered love to his daughter Neetu Mondal when she was going to school. His daughter told him about that matter. He informed to the guardian of the accused the said matter but the accused became furious. On 18.09.2016 at 9:15 in the morning his daughter (the victim) left his house to go to school, when his daughter (the victim) reached on the pacca road at the Northern side of Shantosh Adhikary's home. The accused barrier the victim and he killed the victim with a knife on the abdomen and below the chest, when she ran, on the right leg, on the back, on the right side, at the base of old finger of the right hand. When Ashutosh Adhikari reached the spot and the victim after receiving above injuries fell down at the canal. The witness of Kamala Adhikari saw the commission of offence at 20 yards far away and she made hue and cry after having Ashutosh Adhikari who came to the place of occurrence then the accused Milon Mondal threw the knife with his hand and ran away from the place of occurrence. Then Ashutosh Adhikari and Liton Mondal picked up the victim

and saw the victim had already died due to the described injuries. Dasar police came to the place of occurrence after receiving the information and recovered the victim's dead body and sent his daughter's body to Madaripur Sadar Hospital for autopsy. He lodged a First Information Report (FIR) after hearing the alleged occurrence from the above mentioned persons. He subsequently lodged an Ejahar with Police Station marked as Exhibit-1 and his signature marked as Exhibit 1/1. The police prepared the inquest report of his daughter's body and he put his signature on the inquest report marked as Exhibit-2 and his signature marked as Exhibit 2/1.

It is found in his deposition how the victim was killed by the accused person and he has also narrated the source from whom he heard the occurrence mentioning the names of the persons who testified as P.W.2, P.W.3, P.W.7 and P.W.12 present at the time of commission of offence.

P.W.2 he is an independent witness and he came to earliest after occurrence on the spot. The alleged occurrence took place on the pacca road and at the canal 200 yards away on the north side of his home. On 18.9.16 at 9:15 a.m. his brother's daughter Kamala heard hue and cry from

cannel Ghat. After hearing hue and cry she went to the place of occurrence. Then he saw Milon Mandal was running away from the place of occurrence. He asked to the accused Milon Mandal what happened there. Then the accused told him to see going there with his own eyes. He saw that Neetu Mandal was lying in the cannal of water. Then Pratul Mandal, Liton Mandal came to the spot when he shouted. They picked up the victim Neetu Mandal from water.

He is not an eye witness in the alleged commission of offence but immediately after the occurrence he rushed to the place and saw the accused person running away from the place of occurrence. He told the facts to the informant P.W.1.

P.W.3, she is an eye witness in the alleged commission of offence. She saw the occurrence directly on her own eyes how the victim Neetu Mandal was brutally killed by the accused person. She called out hue and cry and she called to uncle of Ashutosh P.W.2 then she rushed to the place of occurrence and she saw the accused threw the knife in his hand into the pond and ran away. This version of evidence has not been discarded in any way by the

defence rather it has corroborated the evidence of P.W.2, P.W.6 and P.W.7 and as such her evidence carried values, credible and trustworthy.

P.W.4 Nipa Mondal, Mother of the deceased also identified the condemned prisoner Milon Mondal in the dock and at the time of occurrence her daughter was a student of class IX and before three days of alleged occurrence victim disclosed to her that accused Milon Mondal disturbed her for making relationship but she denied the proposal and the accused also more furious and on 18.09.2016 at 9:15 a.m. her daughter left the residence to go to school and while she reached at the pacca road, situated at the northern side of residence of Ashutosh Adikary, the accused in a preplanned manner brutally killed the victim by making several knife blows at the different parts of body of victim and witnesses Kamala Adikery and Ashutosh Adhikery saw the above scenario and after getting above news she came to the place of occurrence and saw the dead body of her daughter. The local people described the whole facts to her. And her evidence is found to be considered as ocular evidence which is not shaken in any way during cross examination by the defence.

P.W.5, Bikash Bariy he is the seizure list witness. He got information from mobile and he came to the place of occurrence. He further deposed that the police seized coffee colour school bag, one pair sandle, cross belt school dress and blood stained apparels from the place of occurrence of the victim (material exhibit-I) on 18.09.2016 and perepared seizure list which was marked as exhibit-3 and his signature marked as exhibit-3/1. Defence has not suggested that these blood stained are not belonging to the victim Neetu Mondal. So the claim of the prosecution has also supported by this Exhibit-3.

P.W.6, Probin Mondal is an independent witness and he heard hue and cry immediate after commission of the offence he came to the place of occurrence. Then he saw that the victim Neetu Mondal is lying in the canal under the road and he picked up the victim from the canal of water along with Liton Mondal. He saw the knife blows at the stomach, chest, thigh, the back side of body and old finger of right hand of deceased. Kamala Adhikary, Ashutosh Adhikary told him regarding the commission of offence. This version of evidence has not been discarded in any way by the defence rather it has corroborated the evidence of



P.W.2, P.W.3 and P.W.7 who exactly narrated the killing incident of the victim in a same voice.

P. W.7 Liton Mondal, is an independent witness, immediate after incident he rushed to the place of occurrence. He belonged to the same home as the accused. At the time of occurrence he was coming from Nabagram Bazar. He heard hue and cry. Then he saw the accused Milon Mondal running away killing the victim Neetu Mondal. He picked up the victim from the canal of water along with Pradeep and Ashutosh and found her as dead body. Defence has failed to make discrepancy or contradiction in the evidence of this witness. Although this witness did not see the accused killing or attacking the victim but at the earliest time of the incident he rushed to the place of occurrence and he saw the accused running away killing the victim and as such his evidence supported to the P.W.2 and P.W.6.

P.W.8 constable, Md. Farhad Hossain is a seizure list witness in whose presence and the seizure list was prepared by S.I. Bayejid on 19.09.2016. He proved the seizure list which was marked as Exhibit-4 and his signature marked as

Exhibit-4/1. The seized knife was recovered in his presence which was marked as material Exhibit-II.

P.W.9, constable, Delwar Hussain is a seizure list witness in whose presence some alamots of the victim were seized by the police and prepared seizure list by SI Bayejid on 18.09.2016 which was marked as Exhibit-5 and his signature 5/1. He identified the seized alamot which was marked as material Exhibit-III.

P.W.10, Zulhas Sardar is a formal witness who gave his signature on inquest report held by police and his signature of the inquest report Exhibit-2/2. The police prepared siezure list on 19.09.2016 and put his signature Exhibit-4/2.

P.W.11, Gopal Baroi is also siezure list witness in his presence some materials of the victim were siezed by the police and his signature marked as Exhibit-3/2.

P.W.12, Nitish Mondal is a hearsay witness who heard by the informant that the accused Milon Mondal killed victim Neetu Mondal. These evidences supported the P.W.1 and his evidence has not been discarded in any way.

P.W.13, Rabi Shankar Baroi is a hearsay witness and siezure list witness who caught red handed to the accused

and handed over to the police person and the alleged knife was recovered as per showing of the accused from the pond by the police on 19.09.2016 in his presence which was marked as Exhibit-4/2 and some alampats of the victim were seized by the police on 18.09.2016 which was marked as Exhibit-3/3. His evidence has not been shaken in any manner but it is a trustworthy and credible witness.

P.W.14, Enayet Sheikh is a disinterested witness and he did not see the occurrence directly. He heard from local people and he rushed to the place of occurrence where the dead body of victim Neetu Mondal was lying. Thereafter they caught red handed accused and handed over to the police. His evidences corroborated to the P.W.13 in the same voice. So, there is no reason of disbelieving his evidences.

P.W.15, Shashank Chandra Ghosh is a medical expert who examined the dead body of the victim. He found 3 (three) injuries in the postmortem on the body of the victim. Injury Nos. 1,2 and 3 are grievous in nature. The PW 1, 2, 3, 6,7, 13 and 14 have categorically stated that the accused Milon Mondal gave a knife blows on the upper abdomen, right iliac region of abdomen and right scapula.

This version of evidences have been corroborated by the inquest and post mortem report. So there is no scope of disbelieving the witnesses. The doctor in his opinion stated that the death was due to shock and hemorrhage resulting from cumulative effect of the above mentioned injuries, which was anti-mortem and homicidal in nature. He has proved the postmortem examination report which was marked as Exhibit-6 and 6/1 respectively.

P.W.16, S.I. Md. Bayezid Mridha is the investigation officer of the case who recorded the statement of the witnesses under section 161 Code of Criminal Procedure and visited the place of occurrence. The defence failed to show any contradiction in the evidences given by the witnesses. Even the defence failed to verify those witnesses, examined by this investigating officer during investigation.

P.W.17, Fozia Hafsa was the senior Judicial Magistrate who on 19.09.2016 recorded the statement of the accused Milon Mondal under section 164 of the Code of Criminal Procedure after observing all the formalities and was also satisfied that the statement was voluntary and true. The accused Milon Mondal did not make any complain to him about police torture. She denied the defence suggestion

that the accused was brought in an injured condition before her or that she was compelled to make the confessional statement. She has proved the confessional statement marked as Exhibit-9, 9/1 and 9/2-series respectively.

P.W.18, S.I. Delower Hossain is a formal witness who was discovered the dead body of the victim and prepared inquest report in presence of witnesses and he put his signature on it marked as Exhibit-2/3. On 18.09.2016 at 11:00 a.m. he sent the dead body of victim to the Madaripur Medical College Hospital for autopsy.

We have considered the submissions of the learned Advocates, perused the evidences and other materials on record. The confessional statement of the condemned prisoner was recorded by P.W.17 during trial. There is sole eye witness, P.W.3. and the P.W.2 went to the place at the earliest i.e. immediate after occurrence and he saw the accused ran away from the place of occurrence committing the offence. The P.W.6 and P.W.7 came to the place of occurrence immediate after the incident and they saw the victim Neetu Mondal was lying in the canal water. The P.W.13 is a disinterested witness who caught red handed the condemned prisoner Milon Mondal and the alleged

knife was recovered by the police from the pond as per showing of the accused in his presence on 19.09.2016.

It is found that the defense has claimed that there was interested witnesses and no impartial witnesses in this case. The witnesses are not at all trustworthy and credible in the eye of law and as such the learned Advocate for the appellant prayed for exonerating the appellant from the charge.

Upon a careful scrutiny of the evidences and prosecution witness. The P.W.3 Kamala Adhikari is only eye witness who could see the occurrence on her own eyes. The P.W.2, P.W.6 and P.W.7 came to the place of occurrence soon after the accused committed the offence of stabbing and they saw the total scenario of the alleged occurrence and the accused ran away throwing the knife in the pond at the place of incident from the used of killing the victim Neetu Mondal. In this case, we do not find anything wrong and the varacity or credibility of the depositions of the witnesses to be disbelieved, there is no allegation of enmity with those witnesses particularly P.Ws.2,3,4,6,7,13 and 14. Even the defence side did not raise any allegation that there was any enmity for which false implication may

come into evidences. However the defence has claimed that the accused made confessional statement narrating that there was love affairs between the appellant and the victim but the victim had also continued relation to other persons. The appellant tried to restrain the victim from involving the relation with other but the victim did not hear the appellant. Accordingly, the accused appellant decided to take revenge and he thought that neither the victim nor himself would survive. Defence further claimed that it is a case of sudden provocation. But the said claim is not supported or corroborated by any single evidence nor any suggestion was given from the defence side at the time cross examining the P.Ws. Defense further claimed that the prosecution failed to place incriminating evidence and the confessional statement to the notice of the accused during examining him under Section 342 of the Code of Criminal Procedure. In reply, the learned Deputy Attorney General submitted that in presence of the appellant the entire evidences was recorded and the witnesses were thoroughly cross examined by the defence. Even the accused did not claim anything that he failed to understand the prosecution case including the evidence of the witnesses. We do not find any

discrepancy of the witnesses come forward to the place of occurrence. The occurrence took place at the broad daylight on the road, as such, we found that the evidences of witnesses are quite natural and they deposed the real fact of the incident.

The evidences of ocular witnesses namely P.Ws.2, 3, 6, 7, 10, 13 and 14 could not be discarded in any manner by the defence in course of cross examination. Therefore, it is very hard to disbelieve their evidences as they narrated the occurrence of brutal killing of a minor girl by the accused person in the same voice. The age of the P.W.3 was 11 years old when the occurrence took place but she deposed in such a natural voice that there is no scope of disbelieving of his evidences. She directly witnessed how the victim was brutally killed in the broad daylight on the pacca road on 18.09.2016 at 9:15 a.m. by the accused person. Though she was not major by age at the time of occurrence but she was capable to understand and reply to any question according to section 118 of the Evidence Act, 1872. The deposition of child witness can be relied upon if he/she is capable of understanding and replying of not a child witness as decided by our Apex Court in case of



Abdul Quddus Vs. The State as reported in 43 DLR (AD) 234. In the said case it has been held that:

*“The testimony of the solitary eye witness could not be shaken in any manner by the defence in cross-examination for which it is difficult to disbelieve her testimony as she narrated the prosecution case in details. Even a child witness can be relied if he/she is capable of understanding and replying the question intelligently.”*

The P.W.3 is an innocent witness in consideration of her age and free from any bias and as such, there is no reason of disbelieving her evidences.

Even conviction of the accused person can safely be based upon a single eye witness if his/her evidence is found credible, trustworthy and corroborative.

It finds support from the case of Hazrat Ali Vs. The State as reported in 75 DLR (AD) 40, where it has been held that:

*“Conviction of an accused can safely be based on the solitary evidence*

*of an eye-witness, if evidence is found full, complete and self-contained and further, the testimony of the solitary eye-witness could not be shaken in any manner by the defence in cross-examination.”*

After careful scrutinizing evidences it is found that the condemned prisoner Milon Mondal brutally killed the minor victim Neetu Mondal in the broad daylight by knife blow. The P.Ws.1, 2, 3, 6, 7, 8, 13 and 14 have deposed supporting the prosecution story. We do not find any discrepancies in the evidences of the PWs rather the evidences of the PWs are well corroborated and natural. There is no suggestion from the defence that there was any enmity with the victim and appellant. The evidences of the P.Ws. could not be shaken in any manner.

The P.Ws.13 and 14 with help of local people caught the accused red handed and handed over to the police. The P.W.13 and PW.14 are local people and they are not relative of the informant and have no remote connection with them, they are neutral witnesses. They caught the appellant from their own consciousness when the accused

was fleeing away and nobody instigated them to do so. Soon after the occurrence the alleged article of knife was recovered as per showing of the appellant from a pond behind the home of Ashutosh (P.W.2) in presence of witnesses P.W.8 and P.W.13. The recovery of knife was spontaneous as the appellant was not taken on police remand at that time. There was sharp cutting injury of the victim and as such it can safely be held that the knife was used for killing the victim. The police who prepared the seizure list was examined and proved the seizure list. So the recovery of knife was also proved. In *Khalil Mia Vs. State* case as reported in 4 BLC (AD) 223 where their Lordships observed that:

*“The recovery of other wearing apparels and toiletries of the deceased at the showing of the condemned prisoner while in police custody leads to the irresistible conclusion that the condemned prisoner had the most intimate relationship with the deceased and that wearing apparels and toiletries of the deceased must have been either in*

*the possession of the condemned prisoner or within his knowledge as to where those articles were. These recoveries are admissible in evidence under section 27 of the Evidence Act."*

So the recovery of knife as per showing of the appellant is admissible in evidence under Section 27 of the Evidence Act. On perusing the Inquest and Post mortem reports it is found injuries and as per opinion of the doctor the injuries were caused by sharp cutting weapon. The knife was used in causing injuries to the victim and victim succumbed to her injuries.

Further the condemned prisoner made confessional statement under section 164 of the Code of Criminal Procedure before the Magistrate who was examined as P.W.17. The judicial confession of the condemned prisoner is reproduced below:

"Avtg v0Zz bvtg GKW tgrtk fj ev Zvg  
 v0Zz AvgtK fj ev Z v0Zzkv bBtb ct 5 ei  
 fj Avgt i fj ev v !K" #Z l q gv cte" #i  
 bvtg GK fj i t qv tgvBj v0Zze%v Kfi 'vAvgt  
 t (fz cB t Uv Avgt v0Zzk evj GUV v0tq Avgt i

!K"(vvc &q Avg GUV &%KiZ cvWjvg bv  
 GQvv wZzKv tUbi tjtj i v) K)v ejZ Ge\*  
 +jtj Av cv w tq t.vv/ivKjtj Ggb tjtj i v)  
 K)v ejZ 'v Avg &%KiZ cvZvg bv Avg ZvK  
 AvK wj0 Kjtj w K12t t vlv wZzAvgv wj0  
 3পক্ষ Kjtj Avv te 4Kjtj tgeBjtj K)v ejZ Z(b  
 Avg fvejvg t wZzt ZzAvgv K)v t vlv bv Ziv  
 Avgv cZt v t qv3wZ #Z e5ei Avg t vDi &lv  
 t)K t vlvKlv Avg t tlv wZz evtebvAvg বাচব  
 bv t vlvKbv ci Avg wZK AvZ Kiv 9b% #v#  
 (BZ)wK #ZKvj K wZz (b +jtj 'wvj Kj ;<=  
 Uv w K &te Z(b >Kz ev 4 রাস্তায় পৌছানোর cjtj Avg  
 Avgv \*# )Kv t vlvw tq c)tg wZz vlv AvZ Kw  
 cjtj tcl? @Uv AvZ Kw Z(b wZzwAKv wvj  
 Z(b Avg wZK রাস্তা t)K tjtj w tq রাস্তার cvv (vtj i  
 g#%/ jtj tB wZK t jtj wjtj t GKw #vtj i v)  
 AvK #tqvj Z(b Avg t (lv t)K ZvK Qw tq  
 (vtj i wfZjtj t jtj tB Avg c)tg t vlvtei Kijtj wZz  
 &Z w tq t vlv jtj Z(b Avg Ub wjtj wZz Bv &Z  
 Ktj'vq t vlvAvgv cKtj wj wZK (vtj i wfZi  
 t jtj t qv ci Avg রাস্তায় 3t t v( GK9b tj K bvg

ACZ0 AwKv4† † (vb G† † † G† † vZz  
 wAKv Cb D tj vKwK † † Avg . Ubv+ B † v v  
 † † † † cvj † † † † † † † † Avg F G Uv. † † H05  
 (v Avg . † † cw gv v 45 & v cZvj Abv c†  
 #ZKj veKvj Avgv Sense Av† ' v K† † Avg  
 † † B K† † Avgv † eq ZvZ emotion † † † Kiv  
 Kw b Avg' ve† † e Z%K) ve† † "

The appellant admitted his guilt making confession under section 164 of the Code of Criminal Procedure. It is pertinent to note here that the date of occurrence was on 18.09.2016, the accused was arrested soon after the occurrence and on 19.09.2016 he made confession under section 164 of the Code of Criminal Procedure. The confession was spontaneous and voluntary. The defence did not raise any allegation of torture at the police custody. The confessional statement of appellant is quite natural and the same being true and voluntary not being influenced or obtained by applying any force or torture and the recording Magistrate recorded in accordance with law upon complying with all the formalities as provided under provision of section 164 read with section 364 of the Code of Criminal Procedure. We have also carefully scrutinized

the confession and the Form and find that all legal formalities have been complied with. On the other hand, the learned Advocate for the appellant did not raise any allegation in recording the confession. The confession is totally voluntary and true as such there is no reason to disbelieve the same, resultantly, the confession can be used against the maker as per section 80 of the Evidence Act. On the other hand, the eye witnesses also supported the same and the inquest and post mortem report also supported the confession of the appellant. The knife was recovered as per showing of the appellant which was Exhibited as material Exhibit-I. There is nothing to show by the defence to interfere by this court with the impugned judgment and order of conviction and sentence dated 21.08.2017. The ocular witnesses narrated the incident disclosing the date, place and manner of the occurrence and there is no single contradiction in his evidence as to the date, place and manner of the occurrence.

The judicial confession has taken as voluntary and true. The judicial confession of the condemned prisoner was not retracted at any stage. When the confessional statement of the accused is found voluntary and true, it is admissible

under section 80 of the Evidence Act and when it is admissible it can be the sole basis of the conviction. It finds support from the decision of our Apex Court in State Vs. Haris case as reported in 71 DLR (AD) 15, where their lordships observed that:

*“Confessional statements of accused relating to admission of his guilt for commission of rape and murder when found to be voluntary and true the same can well be the basis of conviction, because truth is the essence of evidence.”*

On the other hand, the learned Advocate for the Condemned Prisoner referring to a decision of Raya Ram Vs. Emperor complainant opposite party, reported in AIR 1935 Oudh 239 tried to impress us that said principle is applicable in the instant case and accordingly submitted that the sentence of death is liable to be commuted to life sentence. On perusal of the said decision we are of the view the said principle is not applicable in the instant case.



In this case we do not find anything to be disbelieved the evidences of the P.Ws. because there is no allegation of enmity with the appellant and the informant rather the appellant proposed a love to the innocent minor victim who refused to accept the said proposal and thereafter the appellant planned to kill her and as per his plan he purchased a knife and by the said knife the appellant stabbed the victim indiscriminately and causing several sharp cutting injuries. The P.Ws. support the prosecution case.

We have given of our anxious consideration to above submissions of the learned advocate for the accused but we could not find from the materials on record that victim Neetu Mondal was in love with accused Milon Mondal at the point of time. Accused Milon Mondal has stated in his confession that he liked the victim and the victim also liked him. But mere liking does not constitute a relationship of love which comprises the element of commitment.

The learned Advocate for the appellant finally submits that the appellant is a young man of 21 years and he has been in the condemned cell for more than 7 years as

such the death sentence may kindly be commutate to imprisonment of life.

We have carefully perused the judgment passed by the trial court, the FIR, charge sheet, deposition of witnesses and Exhibited documents and materials Exhibits.

Considering all the evidence we find that the minor victim of 14 years old was brutally killed by the condemned prisoner in the broad daylight when she was going to school and the motive of the appellant was to take revenge on the victim due to her refusal to accept the unethical proposal of the appellant. When the minor victim rejected his proposal then the appellant decided to kill the victim, accordingly he purchased the knife from shop on the preceding Wednesday i.e. 14.09.2016 of the occurrence and he got more than 4(four) days to think regarding his plan and as per his plan the appellant was waiting for the way of the victim and finding her on the road repeatedly stabbed her at the back and abdomen. The victim was fell down but the merciless appellant pushed the injured victim in order to throw her in the nearby canal. And as per his confession P.W.2 Ashutosh Adhikari came there at that time and saw the occurrence and the appellant fled away.

We are of the view that the prosecution has been able to prove the case beyond all reasonable doubt. There is no gap left in the chain of evidences but the defence miserably failed to prove the innocence of the appellant. The victim is a minor girl of 14 years old she was killed on a public place in the broad daylight in furtherance of the prearranged plan of the appellant by giving several knife blows without any provocation from the conduct and plan for killing the minor victim, we are of the opinion that there is no reason to show any mercy to the accused. As such, there is no scope of showing leniency to the appellant to commute the death sentence to imprisonment for life.

On taking into consideration all above evidences we are of the view that the learned Sessions Judge correctly appreciated the evidences on record and rightly convicted the accused under section 302 of the Penal Code which calls for no interference.

The sentence of death imposed against the accused Milon Mondal by the trial Court appears to be lawful, justified and acceptable. We are unable to find any deficiency in the death reference and as such both the appeals are liable to be dismissed.

In the result, the Death Reference No.114 of 2017 submitted by the learned Sessions Judge, Madaripur of Sessions Case No.86 of 2017 arising out of Dashar Police Station Case No.04 dated 18.09.2016 corresponding to G.R. No.62 of 2016 imposing the sentence of death against Milon Mondal is accepted and above sentence of death is confirmed and both Criminal Appeal No.9683 of 2017 and Jail Appeal No.369 of 2017 are dismissed.

Send down the lower Court's record at once along with a copy of this judgment to the learned Session Judge, Madaripur immediately for information and necessary action.

S M Kuddus Zaman, J:

I agree

Md. Abadul Haque/Bench Officer.