

District: Chandpur.**In the Supreme Court of Bangladesh
High Court Division
(Criminal Appellate Jurisdiction)**

Present:
Mr. Justice Md. Zakir Hossain
And
Mr. Justice Md. Toufiq Inam

Death Reference No. 41 of 2018.

The State.

-Versus-

Md. Mokhlesur Rahman,

----- Condemned-Prisoner.

Mr. Mohammed Abdul Baset, DAG with
 Ms. Anjuman Ara Begum, A.A.G,
 Ms. Selina Parvin (Setu), A.A.G.
 Mr. Md. Syedur Rahman Mainul, A.A.G.
 Mr. Kazi Mohammad Moniruzzaman Dablu, A.A.G.
 Mr. Md. Mizanur Rahman, A.A.G. and
 Mr. Md. Shaikhul Islam, A.A.G.

----- For the State.

Mr. SM Siddiqur Rahman Advocate with

Mr. SM Hridoy Rahman, Advocate

--- For the Condemned-Prisoner.

With

Criminal Appeal No. 14586 of 2019.

And
Jail Appeal No. 283 of 2019.

Md. Mokhlesur Rahman,

----- Condemned-Prisoner-Appellant.

-Versus-

The State.

----- Respondent.

Mr. SM Siddiqur Rahman Advocate with

Mr. SM Hridoy Rahman, Advocate

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

Mr. Mohammed Abdul Baset, DAG with
 Ms. Anjuman Ara Begum, A.A.G,
 Ms. Selina Parvin (Setu), A.A.G.
 Mr. Md. Syedur Rahman Mainul, A.A.G.
 Mr. Kazi Mohammad Moniruzzaman Dablu, A.A.G.
 Mr. Md. Mizanur Rahman, A.A.G. and
 Mr. Md. Shaikhul Islam, A.A.G.

----- For the Respondent.

Heard On: 12.01.2026, 13.01.2026 and 18.01.2026.
And

Judgment Delivered On: 21.01.2026.

Md. Toufiq Inam, J:

This Death Reference has been made under section 374 of the Code of Criminal Procedure, 1898 (“the CrPC), for confirmation of the sentence of death awarded to the condemned prisoner Md. Mokhlesur Rahman by the learned Senior Sessions Judge, Chandpur, in Sessions Case No. 337 of 2014. The reference is heard together with Criminal Appeal No. 14586 of 2019 and Jail Appeal No. 283 of 2019, as all arise from the same judgment, and are being disposed of by this single judgment.

The prosecution case, in brief, is that the victim, Karful Begum, lived alone in a house constructed by her son, who was residing in Russia. One of her granddaughters, “Iti,” usually slept with her at night. The accused, Md. Mokhlesur Rahman, a grandson of the victim from her elder son, slept in the victim’s

room on the night of 04.05.2014, as a result of which “Iti” did not sleep there that night. At dawn, the dead body of Karful Begum was found lying in front of the house of a neighbour, Kuddus Pradhania. In the morning, the accused was found absent from the house. “Iti” stated that since the accused had slept in her grandmother’s room the previous night, she herself did not do so. Suspecting the accused, information was given to the police. After his arrest, the accused allegedly confessed during interrogation that he had killed his grandmother out of greed for her gold ornaments and had taken them away. On his showing, the gold ornaments of the victim were recovered from the house of his father-in-law.

On the basis of an FIR lodged by the victim’s son, Afaz Uddin, Matlab North Police Station Case No. 03 dated 05.05.2014 was registered under sections 302/379/411 of the Penal Code, and Sub-Inspector Abu Hanif was entrusted with the investigation. The accused made a confessional statement before a learned Magistrate, PW-4. Upon completion of the investigation, Charge Sheet No. 89 dated 20.07.2014 was submitted against Md. Mokhlesur Rahman under sections 302/379/411 of the Penal Code, the allegations having been found *prima facie* true.

After committal, the Court took cognizance of the offences under sections 302 and 379 of the Penal Code, framed charges accordingly, and read over and explained the same to the accused, who pleaded not guilty and claimed to be tried. Of the 14 prosecution witnesses cited in the charge sheet, 13 were examined. As the accused was not represented by a private counsel, State Defence was appointed, and the prosecution witnesses were cross-examined on his behalf. During the trial, the accused absconded, as a result of which his examination under section 342 of the Code could not be held.

From the tenor of the cross-examination, the defence case appears to be one of total denial, contending that the accused is innocent; that the confessional statement was not voluntary and was extorted by physical and mental torture; that he was falsely implicated due to enmity; and that no independent or neutral witnesses were examined by the prosecution.Upon conclusion of the trial, the learned trial court convicted the sole accused and sentenced him to death, giving rise to the present Death Reference and the connected appeals.

Mr. Mohhamed Abdul Baset, the learned Deputy Attorney General submits that the prosecution has been able to prove the charge under section 302 of the Penal Code beyond reasonable doubt through a cogent and consistent chain of circumstantial evidence, duly corroborated by medical evidence, recovery of stolen property, and a voluntary judicial confession. He contends that the death of the victim Karful Begum was undeniably homicidal, as established by the post-mortem report and the testimony of the medical officer, which ruled out any possibility of natural or accidental death. According to him, the defence suggestion of death due to old age is wholly misconceived and unsupported by any evidence.

He further argues that the accused was the last person to stay with the deceased on the night of the occurrence. It was only because the accused slept in the victim's room that the child "Iti," who usually slept with her grandmother, did not stay there that night. The accused's unexplained presence with the deceased immediately prior to her death, coupled with his failure to offer any explanation, attracts the application of section 106 of the Evidence Act.

He submits that the conduct of the accused after the occurrence is highly incriminating. The accused was not found at the house in the morning and was later apprehended from his father-in-law's house, which clearly shows absconce and consciousness of guilt. He adds that the recovery of the victim's gold ornaments from the house of the accused's father-in-law on the showing of the accused is a strong incriminating circumstance. The seizure has been proved by independent witnesses, and minor discrepancies regarding weight or description of ornaments do not affect the credibility of the recovery.

The learned Deputy Attorney General places strong reliance on the judicial confession recorded under section 164 of the Code of Criminal Procedure. He submits that the confession was recorded by a competent Magistrate after allowing sufficient time for reflection and in strict compliance with law. The confession is detailed, voluntary, and finds corroboration from medical evidence and recovery of stolen articles. The subsequent retraction of the confession, he argues, is an afterthought and does not dilute its evidentiary value.

With regard to sentence, the learned Deputy Attorney General submits that the murder was brutal and cold-blooded, committed against an elderly and helpless grandmother by her own grandson, motivated by greed. Such betrayal of familial trust, he contends, shocks the conscience of society and warrants confirmation of the death sentence.

Conversely, Mr. SM Siddiquur Rahman, the learned Advocate appearing with Mr. SM Hridoy Rahman, learned Advocate for the condemned prisoner vehemently opposes the Death Reference and prays for acquittal. He submits at the outset that the entire prosecution case is based on circumstantial evidence and that no eyewitness has been produced to prove the commission of the offence. According to him, the chain of circumstances is incomplete and suffers from serious gaps.

He submits that there is no reliable evidence to establish the presence of the accused in the victim's room at the relevant time. No witness has testified to having seen the accused sleeping with the deceased, and the person who allegedly disclosed this fact, namely "Iti," was not examined at the trial. In the absence of her

testimony, the prosecution version of the “last seen together” theory, he argues, remains unsubstantiated. The learned counsel further contends that the alleged recoveries are doubtful and unreliable, as no inmate or in-house witness was examined. He also points out material discrepancies between the description and weight of the ornaments stated in the FIR and those allegedly recovered. Additionally, the failure to examine any independent witness from the father-in-law’s household, he submits, casts serious doubt on the genuineness of the alleged seizure.

It is further argued that the alleged confessional statement of the accused is not voluntary. He also submits that the confession was obtained under physical and mental torture by the police and that the Magistrate failed to record crucial safeguards, such as noting injury marks on the body of the accused or properly recording the period of reflection. The subsequent retraction of the confession, according to him, clearly indicates that it was not voluntary.

Mr. Rahman also challenges the investigation as being defective and unfair. He points out inconsistencies regarding the place of occurrence, as the body was found in front of a neighbouring

house, while the sketch map shows the place of occurrence inside the informant's building. Such contradictions, he submits, strike at the root of the prosecution case. With regard to motive, the learned counsel argues that there is no reliable evidence to prove that the victim possessed the ornaments allegedly recovered or that the accused was in need of money. He submits that motive has not been proved beyond doubt.

Finally, on the question of sentence, he submits that even if the conviction is upheld, the mitigating circumstances deserve due consideration. The accused was of a young age at the relevant time, had no previous criminal antecedents, and the occurrence was not the result of any pre-planned or calculated design. In such circumstances, it is contended that the extreme penalty of death is unwarranted, and the ends of justice would be adequately met by commuting the sentence to imprisonment for life, if the conviction is not set aside by an order of acquittal.

We have given our anxious consideration to the rival submissions advanced by both sides. The points urged by the learned counsel for the condemned prisoner have been carefully examined in the light of the evidence on record and the settled principles of

criminal jurisprudence. Our findings on these submissions are recorded hereinafter while evaluating the evidence.

For convenience of discussion and decision, as the issues are interrelated, they are taken up together.

PW-1 Afaz Uddin, the informant and son of the deceased, stated that his mother Karful Begum used to live alone in a building constructed by his brother who was residing in Russia. His niece “Iti” usually slept with the deceased at night. On the night of 04/05/2014, the deceased asked “Iti” not to stay with her as the accused Mokhlesur Rahman would sleep there. On the following morning, the dead body of his mother was found lying in front of the house of KuddusPradhania. The accused, who had slept with the deceased that night, was not found in the morning and was later arrested from his father-in-law’s house. During interrogation, the accused confessed that he had killed the deceased, taken her ornaments, dragged the body, and left it in front of Kuddus’s house. On his showing, the gold ornaments of the deceased were recovered. PW-1 proved the FIR and his signature thereon (Exhibits 1 and 1/1). In cross-examination, PW-1 stated that he was in Dhaka at the relevant time and received the news in the

early morning. He admitted that he did not personally see the accused staying with the deceased that night but denied all suggestions of false implication.

PW-2 Kuddus Pradhan, the victim's nephew, stated that at about 5:00 a.m. on 05/05/2014 he saw the dead body of Karful Begum lying in front of his house. Upon information, police arrived suspecting murder. At that time, "Iti" stated that the accused had slept with the deceased the previous night. The police later went to the accused's father-in-law's house, where the accused confessed to killing his grandmother for her ornaments, which were recovered from that house. In cross-examination, PW-2 stated that he did not see the accused sleeping with the deceased and did not accompany police to the father-in-law's house, but denied deposing falsely.

PW-3 Md. Zakir Hossain corroborated the discovery of the dead body and stated that suspicion fell upon the accused as he had stayed with the deceased at night. He accompanied police to the father-in-law's house, where the accused confessed and the ornaments were recovered. Though he was not a seizure witness,

he was present at the time of recovery. He denied false implication.

PW-4 Shaila Sharmin, the then Senior Judicial Magistrate, stated that on 06/05/2014 the accused was produced before her. She allowed time for reflection, ensured absence of police influence, and recorded the confessional statement when the accused voluntarily expressed willingness to confess. The confession was read over to him, admitted to be true, and signed by him. She proved the confession and signatures (Exhibits 2, 2/1, and 2/2). In cross-examination, she denied all suggestions of illegality or coercion.

PW-5 Mofizul Islam stated that on the morning following the occurrence he saw the dead body in front of Kuddus's house. He further stated that the accused used to sleep with his grandmother and was absent that morning. He accompanied police to the accused's father-in-law's house, where the accused confessed and the ornaments were recovered from a trunk. He proved the seizure list and identified the seized articles (Exhibits 3, 3/1 and Material Exhibit-1). In cross-examination, he admitted relationship with the informant but denied false implication.

PW-6 Abdul Kadir stated that he saw the dead body early in the morning and heard from “Iti” that the accused had slept with the deceased. He further stated that the accused confessed both at his father-in-law’s house and again after being brought back. He denied false deposition despite admitting relationship with the informant.

PW-7 Khokon Farazi, another close relative, corroborated the recovery of the dead body, the disclosure made by “Iti,” the absence of the accused from the house, his arrest from the father-in-law’s house, and his confession leading to recovery of ornaments. He proved the inquest report (Exhibits 4 and 4/1). PW-8 Dr. Md. Sirajul Islam conducted the post-mortem examination and found a continuous ligature mark on the neck, incised injuries on the throat and limbs, and internal congestion. He opined that death was due to asphyxia caused by strangulation and was ante-mortem and homicidal in nature. He proved the post-mortem report (Exhibits 5 and 5/1). He denied the suggestion of natural death.

PW-9 Md. Barek Dewan stated that in his presence the accused confessed during police interrogation that he had killed his

grandmother. He denied false implication. PW-10 Md. Delwar Hossain corroborated the confession of the accused, his arrest from the father-in-law's house, and the recovery of ornaments on the accused's showing. He proved his signatures on the seizure list and inquest report (Exhibits 3/2 and 4/2).

PW-11 Imam Hossain stated that he was present during recovery of the ornaments from the accused's father-in-law's house and proved the seizure list and seized articles (Exhibit 3/3 and Material Exhibit-1). He denied any police tutoring. PW-12 Constable Abul Kashem proved the sending of the dead body for post-mortem and delivery thereof after examination (Exhibits 6 and 6/1).

PW-13 SI Abu Hanif, the Investigating Officer, detailed the entire investigation, including registration of the case, preparation of sketch map, inquest report, recovery of ornaments on the accused's confession, recording of the confessional statement, and submission of charge sheet. He proved all relevant documents and material exhibits (Exhibits 3/4, 4/3, 6/2, 7, 7/1, 8-10 series). In cross-examination, he admitted certain discrepancies regarding the place of occurrence and variation in the description of ornaments

but explained the absence of witnesses from the father-in-law's house as the occupants had fled. He denied torture, fabrication, or defective investigation.

The prosecution case rests essentially on circumstantial evidence, supported by medical evidence, conduct of the accused, recovery of stolen articles, and a judicial confession. It is therefore necessary to examine whether the circumstances proved by the prosecution form a complete and unbroken chain leading exclusively to the guilt of the accused, excluding every reasonable hypothesis consistent with innocence.

Nature of Death

The first and foundational fact to be proved is whether the death of Karful Begum was homicidal. The post-mortem report and the testimony of PW-8, the medical officer, leave no manner of doubt on this score. The doctor found a continuous ligature mark around the neck, incised-looking injuries on the throat and upper limbs, and extensive internal congestion and blood clots. In his clear and unequivocal opinion, death was caused by asphyxia due to strangulation and was ante-mortem and homicidal in nature.

The defence suggestion that the victim, being an elderly woman, might have died a natural death is wholly inconsistent with the medical evidence. The injuries noted are not explainable by natural causes or accidental fall. The medical evidence fully corroborates the prosecution version of a violent homicidal death.

Last Stay Together

Although no witness claims to have directly seen the accused committing the act, the evidence establishes that the accused was the last person to stay with the deceased on the night of the occurrence. Several prosecution witnesses consistently stated that the accused slept in the room of the victim on the night of 04/05/2014, which was the reason the child “Iti,” who usually slept with the deceased, did not stay there that night. This fact, though emerging through hearsay from “Iti,” was disclosed immediately after the incident and before any scope for deliberation or tutoring. The statement was spontaneous and natural and has been consistently repeated by multiple witnesses without material contradiction. The defence has not suggested any plausible reason as to why the accused would be falsely implicated as the last person staying with the deceased.

Once the prosecution establishes that the accused was in exclusive proximity with the deceased immediately before her death, and the death occurred during that period, the burden shifts to the accused to explain the circumstances under which he parted company with the deceased. In the present case, the accused has offered no explanation whatsoever.

Conduct of the Accused After the Occurrence

The conduct of the accused after the occurrence is a highly incriminating circumstance. It is proved that the accused was not found in the house in the morning when the dead body was discovered. Instead, he was traced and apprehended from his father-in-law's house at a different village. Such unexplained absence and flight immediately after the occurrence strongly suggest a guilty mind. While absconcence alone is not conclusive of guilt, when read in conjunction with other proved circumstances, it lends considerable support to the prosecution case.

Recovery of Stolen Ornaments

One of the most important links in the chain of circumstances is the recovery of the victim's gold ornaments on the showing of the

accused from the house of his father-in-law. Several seizure witnesses have consistently testified that the accused, during interrogation, disclosed that he had kept the ornaments concealed in a trunk under clothes in his father-in-law's house, and that upon being taken there, the ornaments were recovered.

The defence sought to discredit this recovery by pointing out discrepancies regarding the weight and description of the ornaments and the absence of independent witnesses from the father-in-law's household. These discrepancies are minor and natural and do not affect the substance of the recovery. It is also on record that the occupants of the house had fled, which reasonably explains the absence of household witnesses. The recovery of the stolen articles at the instance of the accused constitutes a strong incriminating circumstance under section 27 of the Evidence Act and provides clear corroboration of both motive and involvement of the accused in the crime.

Motive

The prosecution has successfully proved motive, namely, greed for the gold ornaments possessed by the deceased. Motive assumes importance particularly in a case based on circumstantial

evidence. The recovery of the ornaments from the possession of the accused, coupled with his own disclosure, clearly establishes that the murder was committed for gain. Although motive alone cannot form the basis of conviction, its presence reinforces the prosecution case and explains why the accused would commit such a crime against his own grandmother.

Extra-Judicial Confession

Several witnesses have testified that the accused made extra-judicial confessions before local people and police officers, admitting that he had killed his grandmother for her ornaments. While extra-judicial confessions are generally viewed with caution, in the present case they are consistent, voluntary, and supported by subsequent recovery of stolen property. They therefore add further assurance to the prosecution version.

Judicial Confession

The judicial confession recorded under section 164 of the Code of Criminal Procedure constitutes a vital piece of evidence, as under:

“ভিকটিম করফুল বেগম আমার দাদী। গত ৪-৫-১৪ ইং তারিখ বিকালে আমি আমার স্ত্রীকে নিয়ে শুশুর বাড়িতে যাই। সেখানে আমার স্ত্রীকে রেখে আমি

আমাদের বাড়িতে চলে আসি । রাতে দাদীর ঘরে শুয়েছিলাম । রাত ৩টা/৩^১/_২ টার

দিকে আমি wash room -এ যাই । সেখান থেকে এসে দেখি দাদী ঘুমিয়ে আছে । ঘরে বাতি জ্বালানো ছিল । দাদীর গলায় স্বর্ণের চেইন দেখে আমার লোভ হয় । তখন আমি আমার হাত দিয়ে দাদীর গলা চেপে ধরি । দাদী অনেক্ষণ নড়াচড়া করার পর শান্ত হয়ে যায় । পরে আমি দাদীর লাশ আমাদের বাড়ির তিন চারটা বাড়ি পরে আমার এক চাচার বাড়ির উঠানে রেখে আসি । আমি নিজে দাদীর রুমে চলে আসি । পরবর্তীতে দাদীর স্বর্ণলংকার নিয়ে শুশ্রেণি বাড়িতে চলে যাই ভোরের দিকে । তখন আমার শুশ্রেণির সবাই ঘুমে ছিল । শুশ্রেণি বাড়ির দরজা তখন খোলাবস্থায় ছিল । আমি ঘরে চুকে আমার শুশ্রেণির রুমের শোকেসে কাপড়ের নিচে আমার দাদীর স্বর্ণলংকার রেখে দেই । পরে আমাদের গ্রামের কিছু লোক আমার শুশ্রেণির বাড়িতে যেয়ে আমাকে খবর দিলে আমি আমাদের বাড়ীতে আসি । তখন পুলিশ আমাকে গ্রেফতার করে ।”

PW-4, the learned Magistrate, deposed that she followed all legal formalities, allowed adequate time for reflection, ensured absence of police influence, and satisfied herself about the voluntariness of the confession. The confession contains a detailed narrative of the occurrence, including the manner of killing, the motive, and the concealment of ornaments. It fits squarely with the medical evidence and the recovery of stolen property. The subsequent retraction of the confession by the accused does not by itself

render it unreliable, particularly when it is corroborated by independent evidence. We find no legal infirmity in the recording of the confession and hold it to be voluntary, true, and reliable.

The defence raised objections regarding alleged discrepancies in the place of occurrence and other lapses in investigation. While some inconsistencies exist between the sketch map and oral testimony regarding the precise location where the body was found, such discrepancies are not uncommon and do not strike at the root of the prosecution case. It is well settled that defects in investigation, unless they cause serious prejudice or create reasonable doubt, cannot by themselves be a ground for acquittal. In the present case, the core facts remain intact and unimpeached.

Non-Examination of Certain Witnesses

The defence emphasized the non-examination of "Iti," the child who used to sleep with the deceased. While her examination might have strengthened the prosecution case, her non-examination is not fatal. The fact she disclosed was immediately communicated to others and finds corroboration from multiple witnesses and surrounding circumstances. The prosecution is not required to

examine all possible witnesses, but only those necessary to prove its case.

Cumulative Assessment

When the entire evidence is assessed cumulatively, the following circumstances stand firmly established:

- i) the death of Karful Begum was homicidal;
- ii) the accused was the last person stayed in the company of the deceased;
- iii) the accused absconded immediately after the occurrence;
- iv) the ornaments of the victim were recovered on the showing of the accused;
- v) the accused had a clear motive of greed; and
- vi) the accused made voluntary extra-judicial as well as judicial confessions.

These circumstances form a complete and unbroken chain which leads irresistibly to the conclusion that it was the accused, and none else, who committed the murder. No reasonable hypothesis consistent with the innocence of the accused survives. The prosecution has, therefore, proved its case beyond reasonable

doubt, fully justifying the conviction of the accused under section 302/379 of the Penal Code.

Question of Sentence

Having affirmed the conviction, we now address the most crucial and sensitive issue, namely, whether the sentence of death imposed by the trial court requires confirmation. It is well settled that the sentence of death is an exceptional punishment and that its imposition calls for the most careful and circumspect exercise of judicial discretion. In determining the appropriate sentence, the Court must undertake a balanced consideration of the aggravating and mitigating circumstances, bearing in mind that the inquiry must extend not only to the gravity of the offence but also to the circumstances, background, and personal attributes of the offender, so as to ensure that the punishment imposed is just, proportionate, and consistent with the ends of justice.

In the present case, the aggravating circumstances are undoubtedly grave. The victim was an elderly woman of about 75 years, helpless and vulnerable, and the grandmother of the accused, who reposed trust and confidence in him. The murder was committed within the victim's own dwelling house, and the motive was sheer

greed for gold ornaments. The act thus reflects extreme brutality coupled with a gross betrayal of familial trust and moral depravity. At the same time, the mitigating circumstances cannot be ignored. The accused was young, about 26 years of age, at the time of the occurrence, and there is no material to suggest that he was a habitual offender or had any prior criminal antecedents. Although the offence was heinous, it does not appear to have been the result of long-standing or calculated premeditation; rather, it seems to have been committed under sudden temptation and greed.

In our considered view, the sentence of imprisonment for life would adequately meet the ends of justice, serve the objectives of punishment and deterrence, and still leave room for the possibility of reformation, a foundational principle of our criminal justice system. The conviction under section 379 of the Penal Code and the sentence of three years' rigorous imprisonment imposed by the trial court are also justified. However, since the offence under section 379 of the Penal Code arose out of the same transaction and is integrally connected with the offence punishable under section 302 of the Penal Code, and having regard to the principles of justice, proportionality, and fairness in sentencing, it is directed that the sentence imposed under section 379 of the Penal Code

shall run concurrently with the sentence of imprisonment for life awarded under section 302 of the Penal Code.

In the result—

- i) The **Death Reference No. 41 of 2018 is rejected**. The conviction of the accused under section 302 of the Penal Code is, however, affirmed, but **the sentence of death is commuted to imprisonment for life**. The convicted under section 379 of the Penal Code, and the sentence of three (03) years' rigorous imprisonment imposed thereunder is also affirmed, with a direction that the said sentence shall run concurrently with the sentence of imprisonment for life. Consequently, Criminal Appeal No. 14586 of 2019 and Jail Appeal No. 283 of 2019, preferred by the sole convict, are disposed of accordingly.

- ii) The condemned prisoner, Md. Mokhlesur Rahman son of Abdur Rashid, shall be transferred forthwith from the condemned cell to the general prison and shall remain in jail to serve out the sentence of imprisonment for life in accordance with law.

iii) The convict shall be entitled to the benefit of section 35A CrPC and to such remissions as may be admissible under law.

The Office is directed to transmit the lower court records forthwith and to communicate this judgment to the trial court and the concerned authorities for immediate compliance.

(Justice Md. Toufiq Inam)

Md. Zakir Hossain, J:
I agree.

(Justice Md. Zakir Hossain)

Ashraf/ABO.