District: Rajshahi.

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. 117 of 2018.

The State.
-Versus-
Md. Abdul Kuddus,
----- 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. Md. Mizanur Rahman, A.A.G. and
Mr. Md. Shaikhul Islam, A.A.G.
----- For the State.

Mr. Abdus Salam, Advocate
----- For the Condemned-Prisoner.

With

Criminal Appeal No. 10245 of 2018.
And
Jail Appeal No. 278 of 2018.

Md. Abdul Kuddus,
----- Condemned-Prisoner-Appellant.

-Versus-
The State.
----- Respondent.

Mr. Abdus Salam, 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. Md. Mizanur Rahman, A.A.G. and
Mr. Md. Shaikhul Islam, A.A.G.
----- For the Respondent.

Heard On: 20.01.2026 and 27.01.2026.
And

Judgment Delivered On: 01.02.2026.

Md. Toufiq Inam, J:

Pursuant to section 374 of the Code of Criminal Procedure, 1898 (hereinafter referred to as "the CrPC"), the instant Death Reference No. 117 of 2018 has been made to this Court by the Nari-O-ShishuNirjatan Daman Tribunal No. 2, Rajshahi, following the pronouncement of its judgment dated 19.09.2018 in Nari-O-Shishu Case No. 118 of 2015. By the said judgment, the Tribunal convicted the accused, Md. Abdul Kuddus, under section 11(ka) of the Nari-O-ShishuNirjatan Daman Ain, 2000 (as amended in 2003) (hereinafter referred to as "the Ain, 2000") and sentenced him to death along with a fine of Tk. 5,000/-.

Against the same judgment, the condemned prisoner, Md. Abdul Kuddus, has also preferred Criminal Appeal No. 10245 of 2018 and Jail Appeal No. 278 of 2018. As all these proceedings arise out of

the same judgment, they were heard together and are being disposed of by this single judgment.

The prosecution case, as disclosed, is that accused No. 1, Md. Abdul Kuddus, is the husband of the informant's daughter, the deceased Mosammat Shamima Akhter. Accused No. 2, Mosammat Maleka Bewa, is her mother-in-law, while accused Nos. 3 and 4, Md. Samir Ali and Md. Amir Ali, are her maternal uncles-in-law. The marriage between the deceased and accused No. 1 took place about nine years prior to the occurrence.On 04.11.2014 at about 6:00 a.m., the informant received a phone call from his nephew-in-law, Md. Salah Uddin, informing him that his daughter had committed suicide by hanging. On receipt of the information, the police were notified and Bagmara Police Station registered Unnatural Death Case No. 19 of 2014 dated 04.11.2014. After holding inquest and conducting post-mortem examination, the dead body was handed over to the relatives and buried.

It is further alleged that after marriage, accused No. 1, with the aid and assistance of the other accused, subjected the deceased to physical and mental torture on account of dowry demands. About

8–10 days prior to the occurrence, accused No. 1 demanded Tk. 60,000/- for purchasing a “Mishuk” (three-wheeler). Upon her refusal, in the early hours of 04.11.2014 at about 1:30 a.m., accused No. 1, with the instigation and assistance of the other accused, assaulted the deceased and ultimately strangled her to death. Thereafter, they tied a rope around her neck and fastened it to the leg of the bed in order to give a false impression of suicide.

After the burial of the deceased, the accused persons absconded. Upon consultation with local respectable persons, the informant lodged a delayed FIR at Bagmara Police Station. On receipt of the written complaint, Bagmara P.S. Case No. 32 dated 27.11.2014 was registered under sections 11(ka)/30 of the Ain, 2000, and investigation was entrusted to S.I. Md. Masud Ali. Upon completion of investigation and finding prima facie truth in the allegations, the Investigating Officer submitted Charge-sheet No. 114 dated 24.05.2015 against the accused persons.

Upon submission of the charge-sheet, cognizance was taken and charges under sections 11(ka)/30 of the Ain, 2000 were framed against the accused. They pleaded not guilty and claimed to be

tried. During trial, the prosecution examined twenty-one (21) witnesses. Thereafter, the accused were examined under section 342 of the CrPC, wherein they claimed innocence and declined to adduce any defence evidence.

The defence case, as it emerges from the examination of the accused under section 342 of the CrPC and the cross-examination of prosecution witnesses, is one of total denial. It is contended that accused Md. Abdul Kuddus was not present at home at the relevant time as he had gone out peddling toys and did not return that day. Accused Mosammat Maleka Bewa was allegedly away for Tabligh, and the other two accused reside separately. It is asserted that none of the accused assaulted or caused the death of the deceased for dowry.After closure of trial, the Tribunal convicted Md. Abdul Kuddus and sentenced him to death, giving rise to the present Death Reference and the connected Appeals.

Mr. Mohammed Abul Baset, learned Deputy Attorney General, appearing for the State, supports the Death Reference. He submits that the death occurred inside the matrimonial home during the night and that the dead body was found with a rope tied around the

neck and fastened to the leg of the bed, which completely rules out suicide and indicates a deliberate attempt to screen the offence.He further argues that the prosecution has proved the charge beyond reasonable doubt through clear, consistent, and cogent evidence. The medical evidence, according to him, fully corroborates the prosecution case regarding the nature and cause of death. The circumstantial evidence forms an unbroken chain pointing unerringly to the guilt of the accused, who failed to offer any plausible explanation for the death occurring within his exclusive domain, thereby attracting the presumption under section 106 of the Evidence Act.

He contends that PW-1 to PW-4 consistently proved the pattern of dowry demand and cruelty, including the specific demand of Tk. 60,000/- shortly before the occurrence, and that minor inconsistencies in their testimonies do not affect the core of the prosecution case. He further submits that the accused’s abscondence after the incident lends strong corroboration to the prosecution case. Considering the gravity and brutality of the offence and the manner of concealment, he prays for confirmation of the death sentence and rejection of the appeals.

Per contra, Mr. Abdus Salam, learned counsel for the condemned prisoner, submits that the conviction is based on conjectures and assumptions rather than legally admissible and reliable evidence.He points out that the earliest version of the occurrence, as reflected in the Unnatural Death case, clearly recorded suicide and that no allegation of dowry demand or homicide was made at the time of inquest, despite the presence of close relatives. The FIR was lodged after an unexplained delay of about twenty-three days, which seriously undermines the credibility of the prosecution case.

He further submits that the alleged dowry demand has not been proved beyond reasonable doubt, as the amount, timing, and manner of such demand are inconsistent in the evidence of PW-1 to PW-5 and remain uncorroborated by any independent witness. He also refers to earlier compromises and the voluntary return of the deceased to her matrimonial home shortly before the occurrence.With regard to the charge of murder, he submits that there is no direct evidence connecting the accused with the death. The accused was allegedly not present at home, a fact admitted by prosecution witnesses. He argues that the medical evidence does not support strangulation and that abscondence alone cannot be

treated as proof of guilt. Relying on reported decisions, including 21 BLT (HCD) 397 and 60 DLR (AD) 44, he prays for acquittal and rejection of the Death Reference.

Upon careful, dispassionate, and holistic consideration of the oral and documentary evidence and the submissions of the parties, this Court finds it necessary to reassess the prosecution case. It is evident that there is no direct eyewitness to the occurrence.

PW-1 Md. Akkas Ali Pramanik, the informant and father of the deceased, deposed regarding the marriage, alleged dowry demands, assaults, receipt of the phone call at dawn, discovery of the dead body, and lodging of the FIR after consultation. In cross-examination, he admitted the delay in lodging the FIR, the earlier UD case mentioning suicide, and that certain statements were based on assumption.

PW-2 Md. Tamjed Ali Pramanik, PW-3 Md. Abul Kashem Pramanik, and PW-4 Mosammat Fulera Begum broadly corroborated the allegations of dowry demands, prior mediations, and injuries allegedly found on the body.PW-5 Md. Sekendar Ali, a

local witness, spoke of hearing conflicting versions regarding suicide and murder.PW-6 to PW-8 and PW-14 to PW-15 are inquest and seizure witnesses who stated that they saw the dead body and signed the relevant documents.PW-9 to PW-13, being relatives and local witnesses, narrated their arrival at the place of occurrence, discovery of the body, and the alleged injuries, though their testimonies also disclose variations regarding the manner of death and the presence of the accused.

Section 11(ka) of the Ain, 2000 requires proof of two essential elements: (i) demand of dowry, and (ii) murder committed for or in connection with such demand. Therefore, a causal nexus between the dowry demand and the murder must exist. Upon reappraisal of the evidence, although a background of marital discord has been suggested, the prosecution has failed to establish a proximate and compelling link between any alleged dowry demand and the act of murder. The issue of demand of dowry, which constitutes a foundational element of the offence under section 11(ka) of the Ain, 2000, therefore requires close scrutiny.

The allegation of dowry demand rests primarily on the testimonies of PW-1 to PW-4, who are close relatives of the deceased. While

they have generally spoken of demand of Tk. 60,000/- for purchasing a “Mishuk”, their evidence is largely omnibus in nature and lacks specific particulars as to the time, place, and manner of such demand. None of the witnesses could state that the alleged demand was made in their presence immediately before the occurrence.

Significantly, the initial version of the occurrence, as recorded in the Unnatural Death case, was that of suicide, and at that stage no allegation of dowry-related torture or killing was made by the informant or other relatives, despite their presence at the inquest. The subsequent allegation of dowry demand surfaced only after a considerable delay and after consultation, which casts doubt on its spontaneity and credibility.Moreover, evidence has emerged regarding prior compromises between the parties and the fact that the deceased had been sent back to her matrimonial home after such settlements. PW-1 admitted that only a few days before the occurrence, the deceased had left his house with the accused in a normal manner. These circumstances weaken the prosecution claim of a continuing and proximate dowry-related cruelty leading directly to the death.

The prosecution failed to produce any corroborative material such as records of village arbitration or independent testimony of persons who allegedly intervened earlier. No evidence was adduced to show that any dowry was paid shortly before the occurrence or that the death was immediately preceded by a refusal to meet such demand. Mere allegation of dowry demand, without cogent and independent corroboration, cannot satisfy the standard of proof required in criminal law.

The circumstantial evidence clearly establishes that the victim died inside the matrimonial home of the accused and that the accused failed to offer any plausible explanation. His abscondence just after occarance and the false plea of suicide are incriminating circumstances. However, these circumstances relate to the commission of homicide and not to the motive of dowry demand. Where dowry demand constitutes an essential statutory ingredient of the offence, motive must be specifically proved. Accordingly, while the prosecution has proved homicidal death, it has failed to establish the essential element of dowry demand beyond reasonable doubt. The charge under section 11(ka) of the Ain, 2000 therefore cannot be sustained.In view of the absence of contemporaneous complaint, lack of independent corroboration, inconsistencies

among material witnesses, and unexplained delay in raising the allegation, we are constrained to hold that the prosecution has failed to prove the charge of dowry demand beyond reasonable doubt.

However, the failure to establish the motive of dowry demand does not, by itself, absolve the accused of criminal liability for the homicidal death of the deceased, if the act of murder is otherwise proved by reliable evidence. In the present case, it is undisputed that the deceased met an unnatural and violent death inside her matrimonial home during the night. The defence plea of suicide has not been substantiated by any cogent or convincing evidence. On the contrary, the surrounding facts and circumstances, when viewed cumulatively, clearly point to a homicidal death.

The evidence of PW-6, PW-7, PW-8, PW-12, PW-13, PW-14 and PW-15 consistently establishes that the dead body was found lying on the bed with a rope tied around the neck and fastened to the leg of the bed- an arrangement wholly incompatible with suicidal hanging. The position of the body and the manner in which the rope was tied unmistakably indicate a post-occurrence manipulation intended to give a false appearance of suicide.Further, several

witnesses noticed bleeding from the nose and mouth and injuries on the head of the deceased, which are inconsistent with death by hanging. The medical evidence corroborates these observations and confirms that death was caused by head injury, thereby lending strong support to the prosecution case that the deceased was subjected to assault prior to her death.

The failure to prove dowry demand, therefore, does not ipso facto result in acquittal where the evidence otherwise establishes the commission of murder. It is a settled principle of law that the Court may alter the conviction to an appropriate section if the facts so warrant and such alteration causes no prejudice to the accused. In the present case, the medical evidence conclusively establishes death by ante-mortem injuries, and the post-mortem report completely falsifies the plea of suicide. The accused offered a false explanation and thereafter absconded. Although a plea of alibi was taken or suggested, it was not proved.

The occurrence admittedly took place inside the dwelling house of the accused during the night hours. The accused has failed to offer any plausible or satisfactory explanation as to how the deceased

sustained such fatal injuries while in his exclusive domain. In these circumstances, the burden under section 106 of the Evidence Act squarely lies upon the accused to explain the cause of death, which he has failed to dischargeand his failure to do so permits the Court to draw an adverse inference. His subsequent conduct in remaining absent after the incident further reinforces the inference of guilt. When these circumstances are considered together, they form a complete and unbroken chain pointing unmistakably to the culpability of the accused in causing the death of the deceased.

The inquest and post-mortem reports, when read in their entirety, do not detract from the overall consistency of the prosecution case. The absence of direct eyewitnesses is not fatal where the circumstantial evidence forms a complete chain pointing unerringly to the guilt of the accused. The evidence on record amply supports the conclusion that the victim was killed inside the accused's dwelling house and that the accused bears responsibility for the homicidal death. Although the prosecution has failed to establish the allegation of dowry demand beyond reasonable doubt, the evidence independently and conclusively proves that the accused caused the homicidal death of his wife. The offence of murder,

therefore, stands proved even in the absence of proof of the alleged dowry-related motive.

Taken together, the proved facts unerringly establish the commission of an intentional and culpable homicide amounting to murder and squarely satisfy the ingredients of section 300 of the Penal Code, rendering the offence punishable under section 302 thereof.Under the settled principles of criminal jurisprudence and the enabling provisions of the Code of Criminal Procedure, the Court is competent to alter a conviction to a lesser or appropriate offence where the facts so justify and no prejudice is caused to the accused. In the present case, although the charge relating to dowry has not been proved, the offence of murder stands fully established. The factual matrix remains unchanged, no new or distinct case is introduced, and no prejudice is occasioned to the accused. Accordingly, the conviction of the accused, Md. Abdul Kuddus, is altered to one under section 302 of the Penal Code for the murder of his wife, Shamima Akhter.

In determining the appropriate sentence, this Court has taken into consideration the entire evidentiary landscape and the manner in

which the prosecution case has unfolded. Section 302 of the Penal Code prescribes two alternative punishments, death or imprisonment for life, both of which stand on equal statutory footing. The law does not declare either punishment to be the rule or the exception; rather, the choice of sentence depends upon the proved circumstances of the offence and the offender.In the present case, there is no material on record to show that the accused had any prior criminal antecedents, nor is there anything to suggest that he poses a continuing threat to society. The prolonged mental agony inherent in remaining on death row is also a relevant mitigating consideration. In such circumstances, this Court is well within its authority to commute the sentence of death to imprisonment for life, which fully satisfies the ends of justice. Such a sentence is itself grave, substantial, and punitive in nature.

In therResult-

a) The Death Reference is rejected.

b) The conviction of the condemned prisoner, Md. Abdul Kuddus, son of late Meher Ali, is altered to one under section 302 of the Penal Code, and he is sentenced to imprisonment for life thereunder. Accordingly,

Criminal Appeal No. 10245 of 2018 and Jail Appeal No. 278 of 2018 are disposed of.

c) He shall be transferred from the condemned cell to the general prison forthwith and shall be entitled to the benefit of section 35A CrPC, as well as to remission, if any, in accordance with law.

Let a copy of this judgment, along with the lower court records, be transmitted forthwith to the concerned court/tribunal and to the jail authorities for information and necessary compliance.

(Justice Md. Toufiq Inam)

Md. Zakir Hossain, J:

I agree.

(Justice Md. Zakir Hossain)

Ashraf/ABO.