IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL APPELLATE JURISDICTION)

Present:
Mr. Justice Bhishmadev Chakrabortty
And
Mr. Justice K.M. Rasheduzzaman Raja

Death Reference No. 129 of 2019

The State .....petitioner
-Versus-
Rony Ghosh .....condemned-convict

Mr. Syed Ejaz Kabir and Ms. Nahid Hossain, Deputy Attorney Generals with Ms. Mahbuba Taslim Akhi, Mr. Ashraful Alam, Mr. Md. Abdul Motaleb, Assistant Attorney Generals
.....for the State

Mr. Md. Hafizur Rahman Khan, Advocate
.....State defence lawyer

Heard on: 08.11.2026, and 10.11.2026
Judgment on 11.11.2026.

K.M. Rasheduzzaman Raja, J:

This reference has been made under section 374 of the Code of Criminal Procedure, hereinafter 'the Code', by the learned Judge of the Nari-o-Shishu Nirjatan Damon Tribunal, Tangail awarding death sentence to the condemned-convict Rony Ghosh under section 11 (Ka) of the Nari-o-Shishu Nirjatan Damon Ain, 2000, hereinafter the Ain, by the judgment and

order dated 01.10.2019 passed in Nari-o-Shishu Case No. 111 of 2014 arising out of the Tangail Model Police Station Case No. 39 dated 15.09.2013 corresponding to G.R. No. 559 of 2013.

The prosecution case, in short, is that P.W. 1 Chini Ghosh married off his daughter Monti Ghosh to accused Rony Ghosh on 30.06.2013. At the time of marriage he gave dowry of tk. 10,00,000/- along with gold ornaments and furniture worth tk. 2,00,000/- to the accused. After the marriage his daughter was performing the conjugal life with the accused. During their conjugal life accused Rony Ghosh demanded further dowry of Tk. 10,00,000/- and a motorcycle. Monti Ghosh informed him that the accused used to torture and make pressure on her demanding dowry. Monti Ghosh also informed that accused Rony Ghash had extramarital relation with Purnima Ghosh, the wife of his elder brother as well. He along with other witnesses went to the sweetmeat shop of Swapan Ghosh at Tangail at 1:00 p.m. on 14.09.2013 and informed him the occurrence. Swapan Ghosh called for the accused Rony Ghosh and his relatives accused Robi Ghosh and others. Accused Robi Ghosh arrived at the shop of Swapan Ghosh and consulting him Swapan Ghosh

sent them to the house of the accused. Having a discussion with the accused over the demand of dowry he wanted to take back his daughter but the accused persons requested them to leave her assuring that they would settle the matter. Therefore, leaving his daughter in the house of the accused they returned home. On the next day he asked P.W.2 Dilip Kumar Ghosh to go to the house of the accused to know the later development but going there, he found several people present in the house of the accused. Entering the house of the accused he found Monti Ghosh lying dead in their bed room. He found black mark on her neck. Having seen the dead body of Monti Ghosh P.W.3 Dilip Kumar Ghosh informed him the occurrence. Hearing the occurrence he went to the house of the accused and found the dead body of his daughter. He also found marks of injury on her dead body. He found none of the accused present in the house. The accused persons killed his daughter on 14.09.2013 for dowry. On such occurrence he lodged FIR before Tangail Model Police Station.

Upon such FIR police started Tangail Model Police Station Case No. 39 dated 15.09.2013 under section 11 (ka) and

30 of the Ain, 2000 and appointed P.W. 15 S.I. Md. Salauddin Investigating Officer of the case.

Receiving the charge of investigation P.W.15 S.I. Md. Salauddin investigated the case and submitted charge sheet against the accused persons upon found primary evidence.

Learned Magistrate receiving the charge-sheet transmitted the case to the Tribunal for holding trial. The Judge of the Tribunal receiving the case record took cognizance of the offence and registered Nari-o-Shishu Case No. 111 of 2014. Charge was framed against accused Rony Ghosh, Robi Ghosh and Purnima Ghosh under sections 11(Ka) and 30 of the Ain and it was explained and read over to the accused to which they pleaded not guilty and demanded the trial.

The prosecution examined 17 witnesses to prove the charge. After conclusion of recording of evidence the accused Robi Ghosh and Purnima Ghosh were examined under section 342 of the Code, whereupon they again claimed their innocence and expressed their desire not to adduce any counter evidence. Accused Rony Ghosh could not appear before the Court even taking adjournment and therefore, his bail was cancelled on

24.04.2019. Since then he has been remaining absconded. Subsequently, the Tribunal appointed Advocate Mr. Arfan Ali to defend the absconding accused Rony Ghosh.

The defence case as transpires from the trend of cross-examination is that of innocence. The further defence case is that the accused Rony Ghosh was not present at the time of occurrence. Before the occurrence he went to the house of his sister at Sirajgonj to visit his sick sister. The deceased was killed by anybody else.

Learned Judge of the Tribunal heard the both sides and on perusal of the materials on record found the accused Rony Ghosh guilty and, therefore, she convicted him under section 11 (Ka) of the Ain and sentenced him to death thereuner along with a fine of Tk. 1,00,000/- by the judgment and order dated 01.10.2019 and referred the proceedings to this Division for confirmation of the sentence.

Mr. Syed Ejaz Kabir, leaned Deputy Attorney General appearing for the State took us through the materials on record and submitted that the prosecution adduced sufficient evidence to connect the responsibility of the accused Rony Ghosh with the

killing of his wife Monti Ghosh in his bed rood. After killing his wife accused Rony Ghosh fled the house which indicated his guilty mind. The prosecution witnesses corroborated each other about the demand of dowry by the accused. There was evidence regarding holding of *salish* between the parties on demand of dowry. Since, demand of dowry and killing of the wife of the condemned-convict Rony Ghosh sufficiently proved by the evidence, the reference should be accepted.

Mr. Md. Hafizur Rahman Khan, learned State defence lawyer appearing for the condemned-convict Rony Ghosh opposed the submissions of the learned Deputy Attorney General. Mr. Khan submitted that it came out in the evidence of witnesses that there was a unhappy conjugal life between the condemned-convict Rony Ghosh and his wife deceased Monti Ghosh. Though the demand of dowry appeared in the evidence but that was not the cause of death of the deceased. Therefore, Mr. Khan submitted, this was not a case under section 11 (Ka) of the Ain, and since there was unhappiness in the conjugal life of the deceased, the death sentence awarded upon the condemned-convict Rony Ghosh should not be sustained.

We have already found that the prosecution has adduced 17 witnesses to bring home the charge brought against the condemned-convict Rony Ghosh. Let us examine the some and substance of the evidence on record.

P.W.1 Chini Ghosh, the informant as well as the father of the deceased, has deposed that he married off his daughter Monti Ghosh to accused Rony Ghosh on 30.06.2013 giving dowry of Tk. 10,00,000/- along with other articles worth Tk. 2,00,000/-. His daughter went to the house of the accused to start her conjugal life. The accused persons started demanding further dowry of Tk. 10,00,000/- and a motorcycle. They started putting pressure on his daughter for dowry. His daughter Monti Ghosh informed the demand of dowry to her mother and asked her to take her back from the house of the accused. Hearing from his wife he went to the sweetmeat shop of Swapan Ghosh at Tangail at around 1:00 p.m. on 14.09.2013 and informed him the occurrence. At the instance of Swapan Ghose they went to the house of the accused. His daughter Monti Ghosh said that it was not possible on her part to maintain conjugal life with Rony Ghosh as he was maintaining an extramarital relation with

Purnima Ghosh, wife of his elder brother. His daughter also informed them that the accused used to torture her demanding dowry of Tk. 10,00,000/- and a motor cycle. He wanted to take his daughter with them but the accused persons persuaded him to leave her assuring that they would settle the matter. On the next day P.W.2 Dilip Ghosh went to the house of the accused and found several people there. Going to the room of Monti Ghosh she found her lying dead on the *khat.* Thereafter, P.W.2 Dilip Ghosh informed him the occurrence whereupon he also went to the house of the accused with other witnesses and found his daughter lying dead on the *khat* of the bedroom of the accused Rony Ghosh. They found none of the accused present in the house. Police appeared and held inquest over the dead body and prepared a report with his signature. He has marked the inquest report and his signature thereon as exhibits. The accused persons killed his daughter demanding dowry and on such occurrence he lodged FIR with Tangail Model Police Station. He has marked the FIR and his signature thereon as exhibits.

In cross-examination he stated that hearing the occurrence from P.W.2 Dilip Ghosh he went to the house of the accused

persons and therefrom he went to the police station. The daroga of the police station arrived at the place of occurrence and held inquest over the dead body in presence of the witnesses. Accused Rony Ghosh was arrested from the house of the elder brother of the husband of his sister at Sirajgonj. He was also present at Siranjgonj at the time of arrest at 4:00 a.m. He has denied that accused Rony Ghosh went to Siranjgonj two days before the occurrence to attend his ailing sister. He stated that the brothers of the accused Rony Ghosh had business of sweetmeat at Dhaka. He denied that they lived in Dhaka with their family. He denied that one Ripon Ghosh had relation with his daughter deceased Monti Ghosh or they killed his daughter. He denied that the accused did not demand dowry to him.

P.W.2 Dilip Kumar Ghosh has deposed that the occurrence took place in the bedroom of the accused Rony Ghosh on 14.09.2013 at night. Accused Rony Ghosh is the husband of the deceased Monti Ghosh and they were maintaining conjugal life after their marriage. Thereafter the accused persons started demanding dowry to the deceased and on such demand they were torturing her. On 14.09.2013 he

along with others went to the sweetmeat shop “Joykali Mishtanna Bhandar” of Swapan Ghosh to consult the dispute over demand of dowry between the parties with him. They informed Swapan Ghosh that the accused persons were demanding dowry of Tk. 10,00,000/- and a motorcycle to the deceased. Swapan Ghosh called for the accused Rony Ghosh and his reltives and asked them to settle the dispute. The accused took them to their house and after entertainment accused Rony Ghosh told him that they had to give him a dowry of Tk.10,00,000/- and a motorcycle. Then the deceased Monti Ghosh called them separately and informed that the dispute would not be settled even if dowry is given as because, accused Rony Ghosh was maintaining an illicit relation with Purnima Ghosh. They informed the occurrence to Robi Ghosh who wanted one day time to settle the matter. On his assurance they left the house of the accused and returned home. On the next day the informant asked him to enquire about the development of the matter. He went to the house of the accused at 8:30 a.m. on 15.09.2013 and found there a gathering of people. On query he came to know that the accused persons killed Monti Ghosh.

Entering the bedroom of the accused Rony Ghosh he found the dead body of Monti Ghosh lying on his bed having injuries on her throat and other parts of the body. He found blood on the bed. He informed the occurrence to the informant and following the information the informant and the media people arrived at the place of occurrence. They found none of the accused present in their house. Police held inquest over the dead body and sent the dead body to morgue to hold post-mortem examination. On such occurrence, the father of the deceased lodged FIR. The accused Rony Ghosh was apprehended after two days of the occurrence. Injuries in his two hand and nose were found. Police seized a picture of accused Purnima Ghosh and Rony Ghosh and prepared a seizer list thereof with his signature. He has marked the photograph and the seizure list as exhibits.

In cross-examination he has stated that he is the son of the brother-in-law of the informant. He has stated that they did not write down anything about the holding of *salish* in the shop of Swapan Ghosh. After failure of the *salish* (arbitration) they filed no G.D.E. to the police station. The accused Rony Ghosh was arrested from Sirajgonj. He found scratching mark on the hand

of the accused. The deceased had no relation with anybody in their locality before her marriage. He has denied that he had a relation with the deceased or *salish* held on their relation.

P.W.3. Dulu Ghosh has deposed that the occurrence took place on 14.09.2013 at night in the bed room of the accused Rony Ghosh. The deceased was his niece. The accused persons demanded dowry of Tk. 10,00,000/- and a motorcycle to the deceased and they went to the "Joykali Mishtanna Bhandar" sweetmeat shop of Swapan Ghosh at Tangail to settle the matter. They went to the house of the accused at the instance of Swapan Ghosh where the accused persons again demanded dowry of Tk. 10,00,000/- and a motorcycle to them. At one stage deceased Monti Ghosh informed them that the matter would not be settled even though the dowry is given because accused Rony Ghosh was maintaining an illicit relation with accused Purnima Ghosh. The accused persons asked for one day time to settle the matter and following their assurance they left their house and returned home. One the next day they came to know from P.W. 2 Dilip Ghosh that the accused killed Monit Ghosh for dowry. They went to the house of the accused at 12:00 at noon and found the

dead body of Monti Ghosh in the bedroom of the accused Rony Ghosh with injury marks on her body. They found none of the accuse present at their house. In cross-examination he has stated that no written *salishnama* was executed on 14.09.2013. They did not inform the demand of dowry to any neighbour of the accused. He found scratch marks of nail in the hand of the accused Rony Ghosh when he was arrested from Sirajgonj on 13.09.2013. He has denied that accused Rony Ghosh was remaining in the house of his sister at Sirajgonj since two days before the occurrence.

P.W.4 Sital Chandra Ghosh has deposed that the deceased was his niece. The accused Rony Ghosh demanded dowry of Tk. 10,00,000/- and a motorcycle as a dowry to his wife Monti Ghosh and subsequently, they killed her for dowry. They went to the shop of sweetmeat of Swapan Ghosh at Tangail on 14.09.2013 to settle the dispute on dowry. The deceased informed them that accused Rony Ghosh had illicit relation with Purnima Ghosh. In cross-examination he denied that the accused did not kill the deceased.

P.W.5 Sree Anondo Mohon Ghosh has deposed that he knew the informant, the deceased and the accused persons. The deceased was married off to accused Rony Ghosh. After the marriage the accused demanded dowry of Tk. 10,00,000/- and a Hunda. The father of the deceased and others went to Tangail on 14.09.2013 to discuss the demand of dowry. The accused persons sought one day time. But the daughter of the informant was found dead in the house of the accused persons on 15.09.2013. He went to the house of the accused hearing the occurrence and found the dead body. Police appeared at the place of occurrence, held inquest over the dead body and seized alamot preparing a seizure list with his signature. He has marked the seizure list and the seized materials as exhibits. In cross-examination he has stated that the dead body of the deceased was brought out from the bedroom of the accused Rony Ghosh by the Daroga after their appearance at the house of the accused persons. He has denied that nothing happened according to his description.

P.W.6 Zhantu Ghosh has deposed that deceased Monti Ghosh was married off to accused Rony Ghosh on 30.06.2010.

At the time of marriage Tk. 10,00,000/- and gold ornaments along with other articles were given as dowry. Yet, after some days of the marriage accused Rony Ghosh and others demanded dowry of Tk. 10,00,000/- and a motorcycle to the deceased. They went to Tangail on 14.09.2013 and informed the demand of dowry to Swapan Ghosh who called for accused Rony Ghsoh and Robi Ghosh and asked them to settle the dispute. On the next day Dilip Ghosh informed them that the accused persons killed Monti Ghosh. Hearing such occurrence he went to the house of the accused persons and saw the dead body of the deceased, wife of the accused Rony Ghosh, with marks of injury. Police appeared and took the dead body for holding autopsy. They found none of the accused persons present in the house. In cross-examination he has stated that they had a discussion with Swapan Ghosh for 30/35 minutes about the demand of dowry. He has denied that they did not go to Swapan Ghosh or they did not consult him on the demand of dowry. He has denied that Rony Ghosh demand no dowry to the deceased or he deposed falsely.

P.W.7 Liton Ghosh has deposed in the same line of the previous witnesses regarding the demand of dowry and illicit relation of the accused Rony Ghosh. In cross-examination he has stated that police appeared and held inquest over the dead body in their presence. They found accused Rony Ghosh present in their house on the previous day of the occurrence. He has denied that he deposed falsely.

P.W.8 Uttam Kumar Ghosh have also deposed in the same line and in cross-examination he has stated that the informant is his brother. He has denied that he did not go to Tangail and the accused did not demand dowry.

P.W. 9 Uzzal Rani Ghosh, mother of the deceased, has deposed that accused Rony Ghosh killed her daughter Monti Ghosh on 14.09.2013 for dowry. The accused was demanding dowry of Tk. 10,00,000/- and a motorcycle even though they earlier gave him dowry of Tk. 10,00,000/- along with gold ornaments and other articles. They came to know that accused Rony Ghsoh had illicit relation with accused Purnima Ghosh. Her daughter Monti Ghosh informed her about the demand of dowry and illicit relation of her husband accused Rony Ghosh

with Purnima Ghosh. Hearing the news of killing her daughter they went to the house of the accused but found none of the accused present in their house. They found the dead body of her daughter lying on the bedroom of the accused Rony Ghosh with injury marks on her body. In cross-examination she has stated that police brought out the dead body of Monti Ghsoh from the bedroom of the accused Rony Ghosh. They did not arrange any *salish* over the illicit relation of Rony Ghosh with Purnima Ghosh. She has dined that nothing happened according to her description or she deposed falsely at the instance of her husband.

P.W. 10 Hamida Begum has deposed that the occurrence took place on 14.09.2013 at night. She came to know that the wife of Rony Ghosh was killed. She saw the dead body of the wife of Rony Ghosh going to their house on 15.09.2013. In cross-examination she has stated that she knows nothing more except the seeing of the dead body in the house of the accused.

P.W.11 Monju Rani Pramanik has deposed that the occurrence took place at night on 14.09.2013 in the house of accused Rony Ghosh. She went to the house of the accused at 9:00 a.m. on 15.09.2013 and found the dead body of Monti

Ghosh lying on the bed of the accused Rony Ghosh. She found blood coming out from the nose of the deceased. She also found marks of injury in the neck of the deceased. She heard that the accused Rony Ghosh killed his wife Monti Ghosh demanding dowry and accused Rony Ghosh used to put pressure on his wife Monti Ghosh for dowry. In cross-examination she has stated that she heard about the demand of dowry from the people. She has denied that she heard nothing about the demand of dowry.

P.W.12 Rafiqul Islam has deposed that the occurrence took place at night on 14.09.2013. On the next day he came to know that the wife of Rony Ghosh was killed. Thereafter, father-in-law of the accused Rony Ghosh lodged the case. In cross-examination he has stated that he heard that the accused Rony Ghosh was a drug-addict. He does not know who committed the occurrence.

P.W.13 Monoronjon Saha was tendered and in cross-examination he stated that Ojit and accused Purnima had been living in Dhaka for their business since 4/5 years ago. At the time of occurrence they were in Dhaka.

P.W.14 Dr. Madhob Chandra Sen has deposed that he held autopsy on the dead body of the deceased Monti Ghosh on 15.09.2013 and submitted autopsy report on 16.09.2013. He has marked the autopsy report and his signature thereon as exhibits. He held autopsy at 4:50 p.m. He found the following injuries on the dead body—

(i) bleeding from left nostril;

(ii) Diffuse swelling on the left parietal region and temporal region above left ear measuring 3″×2″

(iii) multiple small and medium abrasion of various sizes fifteen in numbers situated at both anterio lateral and middle area at lower part of neck.

(iv) neck muscle on dissection injured an highly congested ē free blood.

Scalp congested at left parieto temporal area with clot blood excess.

He found half digested food in the stomach of the deceased which was supposed to be digested within 6 hours of its consumption. He has marked the autopsy report and his

signature thereon as Exts. 6 and Ext. 6/1. He has denied that he did not held autopsy correctly.

P.W.15 S.I. Md. Salauddin has deposed that he was appointed I.O. of the case. Receiving the charge of investigation he visited the place of occurrence, prepared sketch-map with index, seized the alamot preparing seizure list, arrested accused Rony Ghosh and interrogated him taking in remand, upon found scratching injury on is hand he asked him about those injuries. Accused told him that those were the scratching marks of nail. Earlier, he held inquest on the dead body at 12:30 p.m. on 15.09.2013 and prepared a report with the signatures of the witness and sent the dead body for holding autopsy to the morgue. He recorded the statements of the witnesses and subsequently, submitted charged-sheet against the accused persons under sections 11(ka) and 30 of the Ain. He photographed the injury of the accused Rony Ghosh and seized the same.

In cross-examination he has stated that accused Ojit Ghosh and his wife Purnima Ghosh live in Dhaka. He found during investigation that the accused Rony Ghosh was a drug-

addict and he has mentioned it in the charge-sheet. He however, did not know whether accused Rony Ghosh was in the drug-addict rehabilitation centre. He has denied that without investigating the case properly he submitted false charge-sheet being influence by the informant.

P.W.16 Swapan Kumar Ghosh has deposed that on 14.09.2013 the informant along with his other relations went to him and told that the accused persons used to persecute on his daughter Monti Ghosh. He called for Robi Ghosh and asked him to settle the dispute. They informed him at the evening that the matter will be settled. On the next day he came to know that Monti Ghosh was killed in the house of her husband accused Rony Ghosh. In cross-examination he stated that the accused Ojit had business of sweetmeat in Dhaka and he was maintaining his business there for many years. He did not witness the occurrence going to the place of occurrence. He denied that the informant informed him nothing.

P.W.17 Dr. Rafiqul Islam has deposed that when he was posted to Tangail General Hospital on 21.09.2014 accused Rony Ghosh was sent to him for treatment. He found injury marks in

his left hand which was simple in nature and he issued a medical certificate. He marked the medical certificate and his signature thereon as exhibits. In cross-examination he has stated that it has not been mentioned in the medical certificate who produced Rony Ghosh before him. He found scratching marks in the hand of the accused. He has denied that the police assaulted the accused and, thereafter, produced before him for treatment.

On perusal of the aforesaid evidence on record it appears that P.W.1 Chini Ghosh, the informant, P.W.2 Dilip Kumar Ghosh, P.W.3 Dulu Ghosh, P.W.4 Shital Chandra Ghosh, P.W.5 Anondo Mohon Gosh, P.W.6 Zhantu Ghosh, P.W.7 Liton Ghosh, P.W.8 Uttam Kumar Ghosh, P.W. 9 Uzzal Rani Ghosh have deposed corroborating each other that being informed by the deceased Monti Ghosh about the demand of dowry of tk. 10,00,000/- and a motorcycle by accused Rony Ghosh they went to the house of the accused. They met P.W. 16 Swapan Kumar Ghosh in his sweetmeat shop “Joykali Mishtanna Bhandar” at Tangail and informed him about the demand of dowry of the accused Rony Ghosh. P.W.16 Swapan Kumar Ghosh called for the accused Rony Ghosh and Robi Ghosh to his

shop and asked them to settle the dispute of dowry. At the instance of P.W.16 Swapan Kumar Ghosh they went to the house of the accused and after having a discussion the accused wanted one day time for the settlement of the dispute. P.W.16 Swapan Kumar Ghosh himself has admitted that father of the deceased Monti Ghosh along with this other relatives went to him on 14.09.2013 and told him about the persecution on his daughter Monti Ghosh by the accused persons. Although P.W. 16 Swapan Kumar Ghosh did not disclose anything about the demand of dowry but there was no other cause for persecuting the deceased Monti Ghosh by the accused persons other than her failure to satisfy their demand of dowry. Because P.W. 1 Chini Ghosh, P.W.2 Dilip Kumar Ghosh and P.W.11 Monju Rani Pramanik along with the other witnesses have deposed that the accused Rony Ghosh used to torture his wife Monti Ghosh for dowry. Now, let us examine whether the demand of dowry and the failure of the deceased to satisfy such demand were the causes of death of the deceased.

In this case not only the demand of dowry; we have found in the above mentioned evidence that there was another fact i.e.

the allegation of having extramarital relation by accused Rony Ghosh with accused Purnima Ghosh, the wife of his elder brother. Any of these two factors might have led the deceased to death. It appears in the post-mortem report that P.W.14 Dr. Madhob Chandra Sen has found 4 injuries on the dead body. Out of the 4 injuries injury No. ii) is a diffuse swelling on left parietal region and temporal region above left ear mesuring 3" X 2" and this injury is found to be a fatal one in comparison with the other injuries. He, however, stated that he found no finger marks around the neck of the deceased which proved that the deceased was not throttled to death. On the other hand, the prosecution did not produce any incriminating equipment or weapon purported to be used by the accused in causing such injuries. Even none of the witnesses deposed how, such injury was allegedly caused to the deceased. The Investigating Officer seized only wearing apparels of the deceased and a photograph but no weapon which may be used for causing injury on the head of the deceased.

The Investigating Officer produced accused Rony Ghosh before the doctor for giving him treatment for the injuries found

on his hand. P.W. 2 Dilip Kumar Ghosh also stated in corss-examination that he found injury of scratching caused by nails in the hand of the accused Rony Ghosh. P.W.17 Dr. Rafiqul Islam stated that the injury found on the hand of the accused was scratch injury but that was not caused by the handcuff found in his hand. P.W.15 S.I. Md. Salauddin, the Investigating Officer, has stated that he found the scratch injury of nail on the hand of the accused at the time of interogation on remand. The accused disclosed that those injuries was caused by the nail of the deceased Monti Ghosh. P.W.15 S.I. Md. Salauddin seized the medical certificate issued by P.W.17 Dr. Rafiqul Islam for the injury of the accused Rony Ghosh and marked the same as exhibit-11. So, it is evident that there was a conjugal fight between the deceased Monti Ghosh and her husband accused Rony Ghosh and the cause of the fight might be the allegation of having extramerital relation by the accused.

On the otherhand, the nature of injuries found on the dead body are not supposed to be caused by using any weapon as there is no such evidence on record. Therefore, there is probability that deceased Monti Ghosh might have been

assaulted and pushed by her husband accused Rony Ghosh at the time of their fight over the allegation of extamarital relation of accused Rony Ghosh with accused Purnima Ghosh and thereby she might have got injury on her head resulting in the death. So, although there is a prove of demand of dowry in the case by the condemned-convict Rony Ghosh but the death of the deceased is not found to be a direct result of the demand of dowry. Because, in the salish the accused themselves took one day time to settle the dispute of dowry.

To implicate any person under section 11(Ka) of the Ain, the death must be occurred as a consequence of dispute over the demand of dowry. Since we did not find any cogent evidence to hold that the death of Monti Ghosh was caused as a result of demand of dowry therefore, we hold that the occurrence of death of the deceased did not satisfy the requirements of section 11 (Ka) of the Ain. However, deceased Monti Ghosh was the wife of the condemned-convict Rony Ghosh and her dead body was found in the bed room of the accused Rony Ghosh who was present in his house in the previous day as all the witnesses have deposed that a *salish* was held over the demand of dowry in

presence of the accused Rony Ghosh, Robi Ghosh and other relatives of the accused. Therefore, the defence case to the effect that the accused Rony Ghosh was remaining in the house of his sister at Sirajgonj since before two days of the occurrence lie flat. All the P.Ws. have found the condemned convict Rony Ghosh absent in his house after the occurrence which indicates that he fled just after the occurrence. So, it can be safely held that since accused Rony Ghosh failed to explain how his wife Monti Ghosh was killed; rather he was found to have escaped he should be liable for killing his wife.

We have already found that this case does not fall under section 11(Ka) of the Ain, 2000, and, therefore, it comes within the purview of section 302 of the Penal Code. Now, the question arises whether the death sentence imposed upon the condemned-convict Rony Ghosh, is proportionate to the offence he committed. We have found evidence of an unhappy conjugal life between the accused, Rony Ghosh, and his deceased wife, Monti Ghosh, which may be considered as a mitigating circumstance. Moreover, the injury found on the dead body does not establish that the condemned-convict, Rony Ghosh, had any

premeditation to kill his wife. In these circumstances, we hold that a sentence of imprisonment for life would be sufficiently proportionate to the offence he committed in this case.

In the result, the death reference is rejected. The conviction of the condemned-convict Rony Ghosh is converted to a sentence under section 302 of the Penal Code and his death sentence is commuted to the sentence of imprisonment for life.

Communicate the judgment and order and transmit the records of the Tribunal.

Bhishmadev Chakrabortty, J:

I agree.

B.O. Kabir