

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Joymalya Bagchi**

And

The Hon'ble **Justice Gaurang Kanth**

Criminal Appeal No. 294 of 2001

NISHI SARKAR ALIAS SANTANU

-VERSUS-

STATE OF WEST BENGAL

For the Appellant : **Mr. Kallol Basu, Adv.,**
 Mr. Apalak Basu, Adv.,
 Mr. Dinesh Pani, Adv.,
 Mr. Atreya Chakraborty, Adv.

Amicus Curiae : **Mr. Saibal Mondal, Adv.**

For the State : **Mr. Ranabir Roy Chowdhury, Adv.,**
 Mr. Mainak Gupta, Adv.

Hearing Concluded On : **08.01.2024**

Judgment On : **08.02.2024**

Gaurang Kanth, J.:-

1. The Appellant Nishi Sarkar @ Santanu has preferred the present appeal challenging the Judgment dated 30.05.2001 and Order of Conviction dated 31.05.2001 ("**Impugned Judgments**") passed by the Additional

Sessions Judge, 1st Court, Howrah in Session Trial Case No. XI (July) of 2000 (G.R. Case No. 488 of 2000). Vide the said Impugned Judgments, the Ld. Trial Court was pleased to convict the accused under Section 302 Indian Penal Code, 1860 and sentenced him to suffer rigorous imprisonment for life and also to pay fine of Rs. 2000/-, in default, to suffer further rigorous imprisonment for 3 months for the offence under Section 302 of I.P.C.

GENESIS OF THE CASE

2. On the written complaint filed by the de-facto Complainant i.e., the wife of the deceased vide G.D. Entry No.1394 dated 19.03.2000, an FIR bearing No. 35 dated 20.03.2000 was registered at Liluah Police Station.
3. It has been stated by the Complainant in her complaint that on 19.03.2000 at 9:30 PM, the de-facto Complainant was sitting at the main door of her house. She saw her son-in-law, i.e., the Appellant/Accused, coming towards their house looking for her husband, Damu Bose alias Swapan Bose (deceased) with sharp edged weapons on his both hands, who was not present at home at that time. The Appellant was shouting that he would sever the head of Damu Bose alias Swapan Bose from his body. The Complainant closed the door of her house out of fear. The Appellant hammered the door with the weapons in his hands. The second daughter of the Complainant, namely, Rinki, who also happens to be the wife of the Appellant informed the Police about this incident over the telephone. In the meanwhile, the de-facto Complainant heard cries of her husband from

outside calling her name and asking her to save him from the Appellant. She opened the door and saw that the accused was chasing her husband towards the house of one of the neighbours. The deceased slipped and fell down and the Appellant inflicted blows on the head and neck of her husband with the sharp-edged weapon in his right hand.

4. After killing the deceased in front of the Complainant, the Appellant ran away from the site with the blood-stained offending weapon in his hand. Later, the Police arrived and the deceased was taken to Howrah General Hospital. The Complainant has further stated that her daughter got married to the appellant against their wishes. However, unable to tolerate the torture of the Appellant and her father-in-law and mother-in-law, Rinki came back to her father's house after one and half year of her marriage and resumed her studies. The Complainant further mentioned that the Appellant telephoned and expressed his intention to take back Rinki and disturbed her in many ways. However, it was clarified to the Appellant by deceased and his family that Rinki shall not go back to her matrimonial home. Due to this animosity, the Appellant inflicted injuries on the deceased which led to his death.
5. The deceased was declared dead at the Howrah General Hospital. PW-13, the doctor who conducted the post-mortem on the body of the deceased, noted 13 injuries on the body of the deceased which were antemortem and homicidal in nature. As per the post-mortem report, the deceased died due to the cumulative effect of all the aforesaid injuries.

6. The police conducted investigation and filed the Charge Sheet. The Ld. Trial Court, vide Order dated 20.09.2000, framed charges against the Appellant under Section 302 I.P.C. to which the Appellant pleaded not guilty and claimed to be tried.
7. In order to substantiate the guilt of the Appellant/Accused, the Prosecution examined 19 witnesses and exhibited several documents. It is the case of the Defence that the Appellant is innocent and has been falsely implicated in this case. The Appellant examined himself on 03.05.2001.
8. After hearing the parties and appreciating the evidence on record, the learned Trial Court vide the Impugned Judgement dated 30.05.2001 and Conviction Order dated 31.05.2001, convicted the Appellant under Section 302 I.P.C. and sentenced him to suffer rigorous imprisonment for life and also to pay fine of Rs.2000/-, and in default, to suffer further rigorous imprisonment for 3 months for the offence under Section 302 of I.P.C.

ARGUMENTS AT THE BAR

9. It is the case of the Appellant that the conviction was based on the evidence of the sole eyewitness, PW-1 who is not a reliable witness. Ld. Counsel for the Appellant further draws the attention of this Court to the Surathal Report prepared by Santosh Kumar, ASI, Howrah P.S. at 10.30 a.m. on 20.03.2000. In the said report, it was mentioned that reason for the death of the deceased was unknown. Despite the fact that as per the FIR, the death occurred on 19.03.2000 at 20.45 hrs in presence of eyewitnesses, there were serious omissions in the Surathal

report. Ld. Counsel for the Appellant further pointed out that there was interpolation of date in the FIR and the time of the death was wrongly mentioned in the FIR as 20.45 hrs. It is the case of the Appellant that these omissions/interpolations show the fallacy of the Prosecution Case and false implication of the accused in the present case. He further pointed out that there were many discrepancies in the testimonies of the PW-1, PW-2, PW-3 and PW-6. Further, the Prosecution failed to seize the offending weapon or blood-stained clothes of the accused. No forensic examination was conducted over the seized clothes. Based on these submissions, Ld. Counsel for the Appellant argued that since the Prosecution failed to prove the guilt of the Appellant, he is entitled for an acquittal. Learned Counsel for the Appellant, in order to substantiate his case, relied upon the following judgments: ***Ramkant Rai Vs Madan Rai reported as 2003 (12) SCC 395, Juwar Singh Vs State of MP reported as 1980 (Supp) SCC 417, Mehar Raj Singh Vs State of UP reported as 1994 (5) SCC 188 and State of MP Vs Kripa ram reported as 2003 (12) SCC 675.***

10. Per contra, learned Counsel appearing for the State argued that there were sufficient materials on record to prove the guilt of the Appellant beyond reasonable doubt. The Statements of PW-1 to PW-6 were in unison regarding the fact that the Appellant came to the house of the deceased on the fateful day at 9:30 PM in search of the deceased with sharp edged weapons in his hands. He hammered the door by shouting that he wanted to detach the head of the deceased from his body. PW-1, who is an eyewitness to the incident narrated the said incident without

any discrepancies. PW-2, who reached the place of occurrence immediately after the crime, deposed that she saw the Appellant running away from the crime scene with the blood-stained sharp weapon in his hand. The Prosecution submitted that there is ample evidence to prove the guilt of the Appellant and hence the Ld. Trial Court rightly convicted the Appellant.

11. This Court heard the arguments advanced on behalf of both the parties and examined the documents and evidence on record and also the judgments relied on by the Counsels for the parties.

EVIDENCE ON RECORD

12. PW-1, i.e., the wife of the deceased who is also the de-facto Complainant, is an eyewitness to the crime. She categorically deposed that on 19.03.2000 at around 9:30 PM she was sitting at the entrance door of the ground floor of her house and her eldest daughter Pinki and second daughter Rinki were on the first floor. She further deposed that suddenly the Appellant, who is the husband of her second daughter, came towards their house abusing her husband in filthy language. There were two sharp cutting weapons in his hands, i.e., one chopper in his right hand and one small weapon in his left hand. The accused further stated that he would kill the deceased by severing his head from his body. Out of fear, PW-1 closed the door, however, the accused kept on hammering the door with the weapons in his hands. She further stated that this incident has been reported to the police by her second daughter, Rinki. In the meanwhile, she heard one Hiru Chowdhury (PW-4), one of their neighbours, asking the Appellant to leave the place

without creating any nuisance. Her husband, i.e., the deceased, was not there at home at that time as he had gone to the market. On returning from market her husband was chased by the Appellant. She heard the cries of her husband as he was calling her name and asking her to save him from the Appellant. Hence, she opened the door and found that the Appellant was chasing her husband towards the house of Bijoy Chakraborty. She further deposed that her husband slipped and fell down near the water tap. The Appellant inflicted blows on his head and throat using the sharp-edged weapon in his right hand. After that the Appellant ran away from the crime spot. She further stated that it was a day prior to Dol Purnima and electric light was also available. Hence, she clearly saw the incident and identified the Appellant and stated that he was wearing full pant and black shirt.

13. PW-2 (Rinki, the second daughter of the de-facto Complainant), PW-3 (Pinki, the eldest daughter of the de-facto Complainant), PW-4 (Pradip Chowdhury alias Hiru, the neighbour of the de-facto Complainant), PW-5 (Manjula Bose, the sister-in-law of the de-facto Complainant) and PW-6 (Chumki Bose, the youngest daughter of the de-facto Complainant), all supported the version of the PW-1 and in unison deposed that on 19.03.2000 at about 9:30 PM, the Appellant came towards the house of the de-facto Complainant with sharp edged weapons in his hands and thereafter, the Appellant hammered the door of the house of the deceased with the said weapons in his hands. The Appellant was looking for the deceased by uttering that he would kill the deceased by severing his head from his body. There are no

discrepancies or contradictions in their statements. The said incident was informed to the Police by PW-2 and PW-4 by making separate phone calls to the Police. Their statements were corroborated by the G.D. Entries, G.D. Entry No.1394 dated 19.03.2000 at 21.50 hrs. (Exhibit P-10), G.D. Entry No.1395 dated 19.03.2000 at 22.05 hrs. G.D. Entry No. 1397 dated 19.03.2000 at 22.15 at 22.15 hrs (Exhibit P-13). Hence, it is proved beyond doubt that the Appellant came to the house of the deceased on the fateful day at around 9:30 PM with sharp edged weapons in his hands in search of the deceased with an intention to kill the deceased.

14. PW-1 is the sole eyewitness who witnessed the murder of her deceased husband. It is her deposition that she heard the cries of her husband from outside asking for help from her to save him from the Appellant. When she opened the door, she saw that the Appellant was chasing her husband towards the house of Bijoy Chakraborty. Her husband slipped and fell down near the water tap and the Appellant inflicted blows on him causing various injuries by using the sharp-edged weapon in his right hand.
15. PW-2, the second daughter of the de-facto Complainant has also deposed that she heard the voice of the deceased father crying for help and asking her mother to save him from the Appellant who wanted to kill him. PW-2 further stated that when she got down from the first floor of her house, she found that the door was opened and she came to know from her youngest sister Chumki (PW-6) that the Appellant has chased her father towards the house of Chakraborty and her mother

followed them. PW-2 further stated that immediately she proceeded towards the house of Chakraborty and found that the accused was running away from the place of occurrence with blood-stained crime weapon in his right hand. She further stated that her mother told her that the Appellant has murdered her father in her presence. PW-2 further stated that she found her father lying in a bleeding condition on the ground and blood was coming out from the throat, hand, mouth and head of her father. She called her father, but he could not respond. Thereafter, Police came, and her father was taken to the hospital.

16. The version of the PW-2 was supported by PW-6. PW-6 categorically deposed that when the door was opened by her mother and herself, they saw the accused was chasing the deceased towards the house of Bijoy Chakraborty.
17. The presence of the PW-1 & PW-2 at the place of occurrence was not disputed by the Appellant. Rather the presence of the PW-1 & PW-2 at the place of occurrence was quite natural and well explained by the Prosecution. Both the witnesses deposed the whole incident with minute precision. There were no contradictions in their testimonies despite thorough cross examination. Hence, this Court has no hesitation in holding that PW-1 & PW-2 are trustworthy and reliable witnesses.
18. PW-13, the doctor who conducted the post-mortem noticed 13 injuries on the head, neck, left forearm etc. of the deceased which were antemortem and homicidal in nature. Further, the post-mortem report clearly indicates that the death of the deceased happened due to the

cumulative effect of the said injuries. The Prosecution has proved the post-mortem report of the deceased by examining PW-13, the doctor who examined and conducted the post-mortem of the deceased.

FINDING WITH REASONS

19. The Prosecution clearly proved the motive behind the commission of the crime. From the depositions of PW-1 and PW-2 it has come on record that PW-2 was kidnapped by the Appellant, who married her without the consent of the family. After the marriage, they stayed together for one and a half years, thereafter, PW-2 came back to her father's house due to the torture meted out to her by the Appellant and his parents. After coming back to her father's house, PW-2 resumed her studies. It has further come on record from the testimonies of PW-1, PW-2 and PW-3 that on 18.03.2000, when PW-2 and PW-3 went to the market, the Appellant met PW-2 there and asked her to return to her matrimonial home. However, she refused to go with him after which the Appellant slapped her and abused her and PW-2 lodged a G.D. with regard to the said incident vide diary No. 1310 dated 18.03.2000 (Exhibit-20) with the concerned police station. PW-1 categorically deposed that the deceased made it clear to the accused that he is not sending his daughter to her matrimonial home. The Appellant in his statement under Section 313 Cr.P.C. also admitted the factum of his marriage with PW-2 and their strained relationship. He also deposed that his mother and paternal aunt never accepted their marriage. The accused also accepted that he met PW-2 on 18.03.2000 and asked her to come along with him, however she was not willing. Thus, it is evident

that there was strained relationship between the Appellant and the deceased which finally led to the murder of the deceased.

20. The presence of the Appellant at the place of occurrence on the fateful day at the relevant time has been proved beyond doubt by the uncontroverted depositions of PW-1 to PW-6. It is the defence of the Appellant that he was not at home on the fateful day as he went to his friend Khokan's elder brother's house at Munshirhat. However, he has failed to adduce any evidence to substantiate the said fact. It is clear from the testimonies of PW-1, PW-2 and PW-13 that the Appellant inflicted injuries on the body of the deceased which led to his death. After a careful examination of the records, this Court has no hesitation in holding that the Prosecution has proved the guilt of the Appellant/Accused beyond doubt.
21. Learned Counsel for the Appellant points out that PW-1 is the wife of the deceased and PW-2, PW-3 and PW-6 are the daughters of the deceased. He further submits that their evidence cannot be relied upon since these witnesses are close relatives of the deceased. It is a well settled principle of law that the testimony of a witness, who is otherwise found reliable, cannot be rejected merely on the ground of him/her being a close relative of the deceased. **(Ref: Bhagwan Jagnath Markad Vs State of Maharashtra, reported as 2016 (10) SCC 537).** This Court, after examining the testimonies of PW-1 and PW-2, has already concluded them to be reliable and trustworthy witnesses and their testimonies cannot be discarded merely on the ground of them being close relatives of the deceased. Further, there are other

independent witnesses like PW-4 to corroborate the versions of PW-1 and PW-2. Moreover, PW-13 i.e., doctor who conducted the post-mortem on the body of the deceased, who is also an independent witness corroborates the fact that the cause of death of the deceased is a cumulative effect of the injuries inflicted on his body. The testimony of PW-13 also indicates the use of a sharp cutting heavy weapon like chopper for inflicting the injuries to the deceased.

22. Learned Counsel for the Appellant, during the course of the argument, pointed out that in the Surathal Report, there was no mention about the cause of death. On perusal of the Surathal report, it shows that it was prepared by the ASI, Santosh Kumar Nath attached to Howrah P.S (PW-15). He deposed that he received an information from Howrah Hospital, and based on the same he prepared the inquest report on the body of the deceased. FIR was registered at P.S Liluah by PW-16, ASI attached to Liluah P.S based on the written complaint of PW-1. The perusal of the record reveals that the Surathal report and FIR were prepared by police officers attached to different police stations. The omission of cause of death in the Surathal report could have been due to lack of coordination between the two police stations. However, no attempt was made to contradict the witnesses regarding the said omission in the Surathal report. It is well settled principle of law that *omissions in the inquest report are not sufficient to put the Prosecution out of Court. The basic purpose of holding an inquest is to report regarding the apparent cause of death, namely, whether it is suicidal, homicidal or by some machinery etc. It is therefore, not necessary to*

*enter all the details of the overt acts in the inquest report. (Ref: **Brahm Swaroop & Anr. Vs State of UP reported as 2011 (6) SCC 288**).*

Further, the evidence of the eyewitnesses cannot be discarded merely because of the omissions in the inquest report. These omissions are not substantive evidence, it can only be used to contradict the witnesses. As noted above, the said omissions were not put to the witnesses. Therefore, this Court is of the considered view that the omission in the Surathal report is not fatal to the Prosecution case.

23. According to the Learned Counsel for the Appellant, the investigation conducted by the Police was defective as no forensic examination was conducted on the wearing apparels of the accused seized from the house of PW-10. Perusal of the record reveals that the incident happened on 19.03.2000 and the Appellant/Accused surrendered on 04.04.2000. Thereafter, at the instance of the Appellant, PW-19 (the Investigation Officer) seized the wearing apparels of the Appellant from the house of PW-10 vide Seizure Memo i.e., Exhibit 4/2 dated 15.04.2000. PW-2 deposed that the accused was wearing black shirt and coloured full pant at the time of the incident. During her cross examination, PW-2 further clarified that she could identify the clothes of the Appellant as she saw the accused on the fateful day from the first floor of her house and also when she reached the place of occurrence where injuries were inflicted to the deceased. She identified Exhibit 4/2 as the wearing apparels of the Appellant at the time of incident. PW-10, who is the aunt of the Appellant, during her cross-examination deposed that the Appellant came to her house 10-12 days prior to the arrival of

Police and left the place wearing her son's clothes leaving his own clothes there. She further deposed that earlier also the accused used to wear the clothes of her son leaving his own clothes at her place. PW-10 further stated that the clothes left by the accused were dirty and hence she washed them and kept it along with other wearing apparels. Thus, from the sequence of events, it is evident that the wearing apparels of the Appellant were seized after approximately 26 days from the date of the incident and the said clothes were admittedly washed by PW-10. It is a matter of record that these clothes were not send for forensic examination. However, lack of forensic examination of clothes of the Appellant/Accused which have admittedly been washed after being worn on the date of incident does not appear to be fatal to the case of the Prosecution when ocular testimony of an eyewitness is found to be credible and cogent. It is a well settled principle of law that in such cases the court has to be circumspect in evaluating the evidence, some flaws in investigation cannot in all cases be a determinative factor to throw out a credible prosecution version (***Ref: Munna Lal Vs State of UP reported as 2023 SCC Online SC 80***). In the present case, the uncorroborated evidence of the PW-1 and PW-2 makes the Prosecution evidence strong and credible. Hence, the alleged flaws in investigation are not fatal to the case of the Prosecution.

24. It has further been submitted by the Learned Counsel for the Appellant that enough light was not there at the place of occurrence to identify the Appellant/Accused. From the evidence of PW-1 and PW-2, it is clear that the incident happened on the previous day of Dol Purnima and

hence there was enough moon light. Further, there was a streetlight in front the entrance gate of their house and a generator was available in case of power failure. PW-18 in his cross examination categorically stated that the distance between the place of occurrence and the house of the deceased was around 200 yards. The streetlight and moon light were thus enough to lit up an area of 200 yards. Further, the Appellant was chasing the deceased, who was crying loudly to save him from the Appellant. PW-1 followed them on hearing her husband's cries. Further, no suggestion has been put to the witnesses to the effect that there was no sufficient light at the place of occurrence to identify the accused. The said objection put forth by the Learned Counsel for the Appellant is misconceived and therefore rejected.

25. Learned Counsel for the Appellant further argued that there were discrepancies in the depositions of the witnesses and the time of occurrence as mentioned in the FIR. It has also been stated that there are interpolations in the FIR with regard to the date of death. This Court examined the FIR and the deposition of the witnesses. Perusal of the FIR reveals that the said FIR was registered based on the G.D Entry No. 1394 dated 19.03.2000 (Exhibit-10) and also the written complaint of the PW-1 (Exhibit-1). PW-16 (ASI who registered the FIR) in his deposition deposed that they got an information on 19.03.2000 at 21.50 hrs that a trouble is going on at 'K' road and based on the said information G.D. No. 1394 was prepared and it was written in that G.D. entry that 'Nishi was striking on the door with hard substance'. After the death of the deceased, the police asked PW-1 to give the written

complaint. Hence, PW-1 narrated the incident to Deepali Bose (PW-7) and based on the said narration, the written complaint was prepared on 19.03.2000 at around 11:30 PM at night. PW-16 in his deposition categorically stated that he received the written complaint on 19.03.2000 at 12.15 PM. Therefore, based on the said written complaint and G.D Entry No.1394, General Diary entry No. 1402 was made at 00.15 hrs and FIR No. 35 dated 20.03.2000 was registered u/s 326/307 I.P.C. PW-16 in his deposition further clarified that the time of the incident noted in the Case Diary as well as in the written Complaint was at 21:30 hrs, however, due to mistake it was written by him in the FIR as '20.45 hrs on 19.03.2000'. It is also noted that the FIR was registered u/s 326/307 I.P.C. even though the PW-1 in her written complaint dated 19.03.2000, clearly stated that the accused killed her husband in front of her.

26. There is no doubt that few omissions have been made by the Police while registering the FIR. After receiving the written complaint, FIR ought to have been registered u/s 302 I.P.C. and not under 326/307 I.P.C. However, after careful consideration of the documents and evidence available on record, this Court is of the considered view that the said omissions are not fatal to the case of the Prosecution (**Ref: Gosu Jayarama Reddy Vs State of AP reported as 2011(11) SCC 766**). Therefore, these omissions on the part of the PW-16 are not a ground by itself to doubt the reliable and clinching evidence adduced by the Prosecution in the present case.

27. Learned Counsel for the Appellant submits that the depositions of the PW-1 and PW-2 are not corroborated with medical evidence. Both PW-1 and PW-2 have testified that the Appellant inflicted injuries on the hands of the deceased. However, as per the post-mortem report, there was no injury found on the hands of the deceased. It is thus the case of the Appellant that the depositions of PW-1 and PW-2 are not reliable. This Court has examined the post-mortem report and testimony of the PW-13. As per the said report, injury No. 8, 9, 10 and 11 are on the posterior surface of the left forearm. PW-13 categorically stated in his deposition that Injury No. 8-12 may occur if the victim tried to rescue himself from the assault. The Appellant was inflicting blows on the deceased, and he was raising his hands to rescue himself from the assaults. In such circumstances, it is quite possible that the accused inflicted blows on the left forearm of the deceased. The fact that PW-1 and PW-2 deposed that the deceased got injuries on his hand and the post-mortem report records injuries on forearms does not make the deposition of the PW-1 and PW-2 unreliable or unsubstantiated by medical evidence.
28. Another objection raised on behalf of the Appellant was that the Prosecution dropped the vital witnesses like Biru Bose and Rakhi. As per the statement of PW-4, these witnesses were present at the spot when allegedly the Appellant tried to give blow to the PW-5 and her mother. It has been argued by the learned Counsel for the Appellant that the Prosecution deliberately dropped these witnesses as they were actually supporting the case of the Appellant. It is well settled principle

of law that the Prosecution is not bound to examine all the cited witnesses and it can drop witnesses to avoid multiplicity or plurality of witnesses. Further, the Appellant also has a right to examine witnesses, if he so desires, in his defence. In case the Appellant was of the view that the said witnesses which have been dropped by the Prosecution actually supported the case of the Appellant, he could have examined the said witnesses in defence. However, in the present case, the Appellant has neither made any attempt to examine the said witnesses dropped by the Prosecution nor examined any other witnesses in defence. This Court is of the view that there is no substance in the said objection raised on behalf of the Appellant and the same is therefore rejected.

29. The last objection raised by the Appellant is that the Prosecution failed to recover the offending weapon, allegedly used by the accused for the commission of the crime. For convicting an accused, recovery of the weapon used in the commission of the offence is not a sine qua non (**Ref: Rakesh & Anr. Vs State of UP, 2021 SCC (7) SCC 188**). PW-1 & PW-2 are trustworthy and reliable witnesses. PW-1 clearly witnessed the commission of the offence by the Appellant and the PW-2 saw the accused ran away from the place of occurrence with the blood-stained offending weapon in his hand. Additionally, PW-1 and PW-2 including other witnesses, i.e., PW-3 to PW-6 witnessed the fact that on the date of the incident, the Appellant came to the house of the deceased in search of the deceased and stated that he will kill him by severing his head from his body. There is deposition of the eyewitness (PW-1) which

is corroborated by other witnesses including the doctor who conducted post-mortem on the body of the deceased which clearly establishes the guilt of the Appellant/Accused. Therefore, the non-recovery of the offending weapon in the present case is not fatal to the Prosecution case.

CONCLUSION

30. In view of the detailed discussions herein above, Prosecution has been successful in establishing the guilt of the Appellant/Accused beyond reasonable doubts. Accordingly, the conviction and sentence of the Appellant is upheld, and the Appeal is dismissed.
31. Period of detention suffered by the Appellant during investigation, enquiry and trial shall be set off from the substantive sentence imposed upon him in terms of Section 428 of the Code of Criminal Procedure. The Appellant is already on bail. Bail bonds of the Appellant are hereby cancelled, and he is directed to be taken into custody immediately.
32. Copy of this judgment along with the lower court records be forthwith sent to the Trial Court at once.
33. Photostat Certified copy of this judgment, if applied for, be supplied to the Appellant upon completion of all necessary legal formalities.

I agree.

(Joymalya Bagchi, J.)

(Gaurang Kanth, J.)