

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

DEATH REFERENCE NO. 01 OF 2024

THE STATE OF WEST BENGAL **... APPELLANT**

Vs.

SK. HASINA SULTANA & ANR **... RESPONDENTS**

With

CRIMINAL APPEAL (DB) NO. 114 OF 2024

SK. VANNUR SHA @ SK. VANNUR SA **... APPELLANT**

Vs.

STATE OF WEST BENGAL **... RESPONDENT**

CRIMINAL APPEAL (DB) NO. 71 OF 2024

SK. HASINA SULTANA **... APPELLANT**

Vs.

STATE OF WEST BENGAL **... RESPONDENT**

For the Appellants
[In CRA (DB) 114/2024]

: Mr. Sandipan Ganguly, Sr. Adv.
Mr. Bibaswan Bhattacharya, Adv.
Ms. Manaswita Mukherjee, Adv.

[In CRA (DB) 71/2024]

Mr. Dipak Kumar Prahladka, Adv.
Ms. Reshmi Khatun, Adv.

For the State : Mr. Debasish Roy, Ld. P.P.
Ms. Amita Gaur, Adv.
Ms. Nahid Ahmed, Adv.

Hearing concluded on : 15.07.2025

Judgment on : 21.08.2025

MD. SHABBAR RASHIDI, J.:-

1. The Death Reference and the two appeals have arisen out of the common impugned judgment of conviction dated February 27, 2024 and the order of sentence dated February 29, 2024 passed by learned Additional Sessions Judge, Fast Track Court - I, Howrah, in Sessions Trial No. 139 of 2016.

2. By the impugned judgment, the appellants were found guilty and were convicted for the offence punishable under Sections 302/201/34 of the Indian Penal Code, 1860. Consequently, by the impugned order of sentence, the appellants were sentenced to death for the offence punishable under Section 302 of the Code of 1860. The appellants were further sentenced to suffer rigorous imprisonment of 5 years with fine of ₹10,000/- each for the offence punishable under Section 201 of the Indian Penal Code. In default of payment of fine, the convicts were to suffer rigorous imprisonment for a further period of one year each.

3. Learned advocate representing the appellant Sk. Vannur Sha submitted that the confession made by a co accused cannot be

considered as the primary evidence. It is contended that the prosecution must come up with certain primary evidence in support of its case and only after that, a confession made by a co accused can be considered for proving the case of the prosecution.

4. Learned advocate for such appellant also submitted that the evidence of PW13 cannot be relied upon for the same suffers from material infirmities telling upon its veracity. Timeline stated by such witness does not match with the sequence of events. Referring to the evidence of PW15, it is contended that the person who is said to arrange a rented accommodation for the appellants was not examined by the prosecution.

5. Learned advocate for Sk. Vannur Sha also contended that according to the narration given by PW13, the appellants with the victim child started residing at his house since December 23, 2015 and stayed there for 15 days. In such sequence of events the appellants must have left the house of PW13 around January 6, 2016 to January 8, 2016 whereas, the dead body of the child was recovered at Howrah Station on January 24, 2016. The prosecution has not been able to establish the whereabouts of the appellants between January 8, 2016 and January 23, 2016.

6. It was further submitted by learned advocate for appellant Sk. Vannur Sha that PW13 could not produce any document to establish that the appellants stayed at his house on rent. Besides that, the son

of PW13 and his neighbours were not examined by the prosecution, in support of the statement of PW13. For such reason the testimony of PW13 cannot be relied upon. It was also contended that the prosecution has not proved that the victim child was in the company of the appellants in an around the time of his death. Therefore, the appellants cannot be obliged to explain the circumstances of death of the victim based on Section 106 of the Indian Evidence Act, 1872.

7. Learned advocate for such appellant also submitted that the CCTV footage produced on behalf of the prosecution is not supported by a certificate under Section 65B of the evidence Act, and as such, the CCTV footage cannot be relied upon to convict the appellants. It was also submitted that the appellant Sk. Vannur Sha was not confronted with the statement of the co-accused recorded under Section 164 of the Criminal Procedure Code, at the time of his examination under Section 313 of the Code of Criminal Procedure. As such, the statement of the co-accused cannot be taken into consideration as against the appellant. In support of such contention, learned advocate for appellant Sk. Vannur Sha relied upon **(1952) 1 Supreme Court Cases 275 (Kashmira Singh V. State of M. P.)** and **(2007) 4 Supreme Court Cases 266 (Prakash Kumar V. State of Gujarat)**.

8. Learned advocate for such appellant also submitted that the photographs of the victim could not have been admitted in evidence

without the examination of the person who had taken the photographs. It was also submitted that the evidence on record is silent as to whether the photographs were taken by a digital camera or analog camera. In the case of digital camera, the photographs must have been proved with the help of a certificate issued in terms of Section 65B(4) of the Indian Evidence Act, 1872. In support of such contention, learned advocate for the appellant relied upon **2020 SCC OnLine Cal 989 (Nasir Mallick V. State of W.B).**

9. Learned advocate for the appellant also submitted that several material witnesses like the son of PW 13, his neighbours and the person who arranged the rented accommodation for the appellants were not examined by the prosecution. According to him, non-examination of such material witnesses renders the case of the prosecution doubtful giving rise to an adverse inference. To such proposition, reliance was placed upon **(1953) 2 Supreme Court Cases 231 (Habeeb Mohd. V. State of Hyderabad)**. It was also contended by learned advocate for the appellant that photocopy of a certificate of the victim was seized. A photocopy of a document was not admissible in evidence. In support of such contention, learned advocate relied upon **(1978) 4 Supreme Court Cases 474 (Davendra Prasad Tiwari V. State of U. P)** and **(1995) 2 Supreme Court Cases 76 (Shivappa V. State of Karnataka)**.

10. Learned advocate for the appellant Sk. Hasina Sultana submitted that the post mortem report proved by the prosecution does not contain the time and cause of death of the victim. It was also contended that though, the investigating officer received information of a missing complaint lodged at Tenali-1 Police Station, however, no steps were taken to hand over the dead body to such police station.

11. Learned advocate for such appellant also submitted that the investigating officer, although, visited the house of the father of the victim, he also visited Howrah Sadar Hospital where the dead body of the victim was handed over to him but such father of the victim was not examined at the trial. Similarly, the witnesses to the arrest of the appellants were not examined. The seizure list through which empty stripe of Cetrizine tablets was seized was not mentioned by PW13 in his deposition. However, no poison could be detected in the viscera of the victim upon chemical examination. According to him, such discrepancies render the case of the prosecution highly doubtful.

12. It was also contended that the appellant Sk. Hasina Sultana stated in her examination under Section 313 of the Code of Criminal Procedure that her statement recorded under Section 164 of the Criminal Procedure Code was made being tutored by police and as such, the same cannot be relied upon to secure her conviction.

13. Learned advocate for such appellant also contended that no part of the alleged offence was committed within the jurisdiction of learned trial Court; therefore, the entire trial is vitiated for want of jurisdiction.

14. On the other hand, learned advocate for the State submitted that there are no discrepancies in the evidence of PW13. He never deposed that the victim was murdered just after leaving his house. He just testified that the appellants stayed with the victim child at his house and that there appears no doubt in such testimony. Learned advocate for the State also submitted that non examination of the son of PW13 or the friend of the appellant, who is alleged to have arranged rented accommodation for them, is not fatal. The prosecution cannot be brandished for withholding vital witnesses.

15. Learned advocate for the State further submitted that the dead body was recovered at Howrah railway station which is within the jurisdiction of the learned trial court. As such, the trial cannot be said to vitiate for want of jurisdiction.

16. Learned advocate for the State also submitted that the prosecution has been able to bring home the charges levelled against the appellants with the help of convincing evidence beyond all reasonable doubts and therefore, learned trial court was justified in convicting the appellants and imposing the sentences.

17. One S.I. Tapas Chatterjee of Howrah GRPS lodged a suo motu written complaint on January 24, 2016 with the Howrah GRPS.

According to such written complaint, the duty officer S.I. Ekbalur Rahaman of Howrah GRPS received a Railway Memo at 19:20 hours on January 24, 2016 from on-duty Station Manager, New Complex, Howrah. Such Memo disclosed that one male baby approximately aged about one year, was found seemingly dead, inside a bag under the seat of coach No. GS 06424SC of 12740 Dn. Falaknama Express which had arrived at platform No. 22. On receipt of such Memo, Howrah GRPS GDE No. 1857 dated January 24, 2016 was lodged and being endorsed, the de-facto complainant proceeded to the spot with a constable and dom. The written complaint also stated that on reaching the spot inside the coach of 12740 Dn. Falaknama Express standing at platform No. 22 of Howrah, the de-facto complainant observed a black coloured medium size side bag which contained the dead body of an unknown male baby lying in fully naked condition. The de-facto complainant also noticed a deep haematoma over the left chin of the baby with bluish/blackish spot all over the body. He further noticed that the body of an unknown baby aged about one year and that the lips of the deceased baby were abnormally blackish and there was emission of blood from his nostrils.

18. The de-facto complainant conducted the inquest over the dead body in connection with Howrah GRPS Unnatural Death Case No. 4 of 2016 dated January 24, 2016. He also seized the black coloured bag which contained the dead body. The written complaint also stated that

after observing the marks found on the dead body, the de-facto complainant was of the opinion that the male baby was murdered somewhere else and was kept in the running Dn. Falaknama Express in order to cause disappearance of evidence.

19. On the basis of such written complaint, Howrah GRPS Case No. 1 of 2016 dated January 24, 2016 under Section 302/201 of the Indian Penal Code was started against the unknown miscreants. Police took up investigation and on completion of investigation submitted charge-sheet in the case. The offences being exclusively triable by the Court of Sessions, the case was committed to the Court of Sessions. Consequently, on the basis of materials in the case diary, charges under Sections 302/201/34 of the Indian Penal Code were framed against the two appellants on June 16, 2016. The appellants pleaded not guilty to the charges and claimed to be tried.

20. In order to prove its case, prosecution examined as many as 15 witnesses. In addition to, the prosecution also relied upon certain documentary as well as material evidence.

21. The de-facto complainant himself deposed as PW 1. He corroborated his statement in the written complaint. He stated that on January 24, 2016 at 7:20 p.m., the duty officer received a Railway Memo from the on-duty Station Manager, New Complex stating, inter alia, that one male baby aged about one year was found, seemingly dead, inside a bag at Dn. Falaknama Express. PW 1 started an

unnatural death case. They investigated the matter. He along with a constable and dom visited the platform No. 22 where the train was standing. The dead body was brought up from a black bag with the help of the dom which was kept under the seat of general compartment. The dead body was naked and there were signs of haematoma all over the body. PW 1 also found red mark near his lips and bleeding from nose. Photographs of the dead body were taken. PW 1 conducted inquest over the dead body and prepared a report to that effect. Thereafter, he sent the dead body for post mortem examination and lodged a written complaint. PW 1 proved the written complaint which was marked as Exhibit-1. He also proved the inquest report, Exhibit-2. He also proved the seizure list dated January 24, 2016 through which the black bag was seized, Exhibit-3. He proved the rough sketch map with index, Exhibit-4. PW 1 also stated that he recorded the statement of the witnesses present at the time of recovery of the dead body. He also seized the viscera of the baby and handed it over to the investigating officer. He proved a seizure list dated January 25, 2016 (Exhibit-5). PW 1 also identified and proved the seized bag, which was admitted in evidence and marked as Mat Exhibit- I.

22. The Station Manager of the South Eastern Railway deposed as PW 2. He stated that on January 24, 2016 he received information that a bag was found with a baby inside in one of the general compartments of Falaknama Express. PW 2 went to the spot and

believed that the baby was dead. He called upon the railway doctor who examined the body and declared him to be dead.

23. A medical officer was examined as PW 3. He stated that on January 25, 2016 he conducted autopsy over the dead body of one unidentified male child aged about one year in connection with Howrah GRPS U.D. Case No. 4 of 2016 dated January 24, 2016. On such examination he found the following injuries:-

“Bruise over the right cheek; bruise on the entire anterior right arm; fracture of the right humerus at the lower end; bruises on the two lips; bruise on the left cheek; piecemeal fracture of the left humerus with surrounding bruises; 6 nail scratches abrasion on the right anterior lower neck; bruise on the mid-upper back; abrasion of mid-sacral back; bruise of right posterior neck one inch below right mastoid tip; bruise on the right posterior elbow; scalp haematoma over the mid frontal scalp and sub-dural and extra-dural haemorrhage of both cerebral hemisphere along with bases.”

24. PW 3 also stated that all the injuries found on the dead body showed vital reaction. In his opinion, death was due to the aforesaid ante mortem and homicidal injuries. PW 3 proved the post mortem report prepared in his pen and signature which was marked as Exhibit-7. He further opined that the injuries found on the person of

the dead body could not have been caused by fall from a high surface. However, he did not opine as to the time of death.

25. A Sub-Inspector of Police deposed as PW 4. He stated that on January 24, 2016 Dn. Falaknama Express was stationed at the New Complex of Howrah Railway Station at platform No. 22. He further stated that after the passengers alighted from the train, one Jaynath Yadav, an employee of the contractor of Railway Department was checking the empty compartments of the train. In course of such checking, one red coloured bag was spotted in a general compartment kept under the seat. The bag was checked by Jayanth Yadav and it was found that one baby was packed inside the bag and found in dead condition. He reported the matter to PW 4. PW 4 along with one Havildar Jeet Kumar went to the spot upon such reporting. They, in turn, informed the same to the Station Master of Howrah Station after seeing the dead body. PW 4 also stated that thereafter one S.I. of GRPS Tapas Chatterjee (PW 1) along with some police personnel and one dom came to the spot and interrogated PW 4 and others. After that, one S.I. Swapan Das came there. One report was prepared at the spot in presence of PW 4 where he put his signature. He proved his signature, Exhibit-2/1. He also identified the seized bag. PW 4 also stated that he found right side of the face of the deceased child full of blood. PW 4 was cross-examined by the defence but nothing favourable could be elucidated.

26. A police constable was examined as PW 5. He stated that on January 24, 2016 he was posted at Howrah South Post over the platform Nos. 17 and 23 for checking the maintenance of the trains arriving at. PW 5 further stated that Dn. Falaknama Express arrived at platform No. 22 and upon checking the seat of the goods compartment; one key man informed him that one red bag was lying in the general compartment of the said train. Thereafter, PW 5 informed the matter to shift in-charge and with the help of key man the red bag was taken out from the rail compartment and opened outside the train. It was found to contain a dead body of a child. He further stated that upon such recovery the shift in-charge informed the matter to GRPS, Howrah. Thereafter, one Chatterjee sahib along with other police personnel and dom came to the spot. Later on one Das sahib also came there and PW 5 and others were interrogated. The bag containing the dead body of the child was seized. He also stated that the body of the child was full of injuries. PW 5 proved his signature on the inquest report. He also identified the seized bag. He was cross-examined by the defence.

27. A police personnel from Andhra Pradesh was examined as PW 6. He stated in his deposition that he was posted as a Sub- Inspector at Tenali-1 Town Police Station. He was authorised by the Officer-in-Charge of Tenali-1 Town Police Station, Guntur, Andhra Pradesh to depose in connection with the instant case. PW 6 proved the

authorisation letter issued by the Officer-in-Charge of Tenali-1 Town Police Station (Exhibit-10).

28. PW 6 also stated that as authorised by the Officer-in-Charge he had brought some public documents maintained in Tenali-1 Town Police Station, in original as well as attested copy thereof. He produced the copy of a written complaint in Telegu language submitted at Tenali-1 Town Police Station by one Sk. Roshan Bee, the original of which was despatched to the concerned Court. On the basis of such written complaint, a formal First Information Report was drawn up at Tenali-1 Town Police Station. He also produced the said formal FIR in connection with Tenali-1 Town Police Station Case No. 180 of 2015 dated December 29, 2015.

29. PW 6 further stated that the written complaint was alleged by one Sk. Roshan Bee, wife of late Jonny aged about 60 years. According to PW 6, the said written complaint was in connection with an incident that the daughter of the de-facto complainant, namely, Sk. Hasina Sultana and her child aged 1½ years had gone missing from their house on December 22, 2015 at about 7:30 p.m. PW 6 proved the written complaint, formal FIR as well as a translated copy of the written complaint (Exhibit-11 series). He further stated that one head constable Jayamohan Rao (N2826) was entrusted with the investigation of the said case. He further stated that copies of these official documents were handed over to the investigating officer of the

case registered at the Howrah GRPS when he visited the Tenali-1 Town Police Station. A lookout notice in the name of Sk. Hasina and her child was issued from Tenali-1 Town Police Station after initiation of the case at Tenali-1 Town Police Station. An attested copy of the lookout notice was proved by PW 6 as Exhibit-12 (the original was returned to the witness). PW 6 also produced the case diary containing the final report submitted in the missing case instituted at Tenali-1 Town Police Station. The final report in such case was proved as Exhibit-13.

30. Another Police personnel was examined as PW 7. He stated that on January 24, 2016 he was posted as constable at Howrah GRPS. At about 4:30/5:00 p.m. one bag was found in the general compartment of Falaknama Express which contained the dead body of a little baby. He further stated that S.I. Tapas Chatterjee lodged information regarding the incident and the case was registered over the incident. S.I. Swapan Das was endorsed with the investigation of the case. PW 7 accompanied the investigating officer along with Constable Jawharlal Bhowmil, lady constable Durga Patra, lady constable Moina Saha and A.S.I. Uday Sankar Ghosh to Tenali-1 Town Police Station on January 28, 2016 by Falaknama Express. They reached on January 29, 2016. There they came to know that a missing complaint was lodged in the said police station in the name of one Sultana and her kid. PW 7 has

no knowledge that the copy of the complaint was collected by the investigating officer.

31. PW7 further stated that on January 30, 2016, PW 7 and other personnel visited the house of the lady who lodged the missing complaint at Guntur. There the missing lady named Sultana was present. She was arrested upon interrogation. PW 7 also stated that he and other police personnel came to know from such interrogation that another person was also involved in the incident. The said missing lady Sultana along with the said person had murdered the little boy. Accordingly, on the basis of such interrogation PW 7 and other police personnel proceeded to Hyderabad where her partner was arrested. PW 7, however, could not say the name of the said person. PW 7 was extensively cross-examined on behalf of the defence.

32. A lady Constable of police deposed as PW8. She stated that being posted in such capacity on January 24, 2016, she came to know that the dead body of a child was recovered kept in a bag from general compartment of Falaknama Express at platform no. 22 at Howrah. She further stated that on January 28, 2016, she accompanied the investigating officer of the case with other members of police force to Tenali-1 police station by Express. The police team reached there on January 29, 2016 where they came to know that a missing complaint was lodged by Roshan Bee, mother of the appellant stating, inter alia, that the appellant Hasina Sultana and her child were missing.

Accordingly, the police team, accompanied by police personnel from Tenali-1 police station, visited the house of Roshan Bee situated in a place called 'Rice Colony' on January 31, 2016 at about 3.30/4.00 p.m.

33. PW8 further stated that on interrogation, the complainant stated that her daughter had returned a day before but the child did not return. The appellant i.e. the daughter of the complainant was interrogated whereupon she disclosed that she had married the other appellant Vannur Sha. She stayed with said Vannur Sha in a rented accommodation at Hyderabad and was carrying for 3/4 months. On interrogation, the appellant Hasina Sultana also disclosed that the child used to cry and create commotion upon which the landlord used to protest. For such reason, the two appellants used to beat the child. One day the child was reeling under fever for which the child was administered some medicine after assaulting him. Pursuant to such assault and administering medicine, the child turned cold and died. Thereafter, the other appellant, Vannur Sha packed the dead body in black-red bag and left it in the general compartment of Falaknama Express. She was then arrested. PW8 also stated that the appellant Hasina Sultana also disclosed the residence of the other appellant Vannur Sha situated within the jurisdiction of Tenali-1 police station. Accordingly, Vannur Sha was also interrogated. In his statement, he

corroborated the statement of appellant Sk. Hasina Sultana, whereupon, he was also arrested.

34. PW8 further stated that both the arrested appellants were brought to Tenali-1 police station where; their statements were recorded and translated by one Minu Mondal, an employee of a jewellery shop near the said police station, who was conversant with Telugu and Hindi. PW8 proved her signature on such statement in Telugu transcript (Exhibit 14). She also proved her signature on the seizure list through which copy of birth certificate of victim was seized (Exhibit 15). She identified the appellants and the bag which contained the dead body, in the court. She also stated that the father of the victim identified his son through photographs. She identified her signature on the statement of the father of the victim.

35. The Judicial Magistrate was examined as PW9. She stated that on February 29, 2016, she recorded the statement under Section 164 of the Code of Criminal Procedure of the appellant Sk. Hasina Sultana after observing all legal formalities; in connection with Howrah GRPS Case No. 21 of 2016 dated January 24, 2016. She proved such statement as exhibit 8.

36. PW10 is a lady Constable of GRPS. She stated that on January 24, 2016 a bag was recovered from a compartment of Falaknama Express which contained dead body of a child. She saw the bag on the following day. A case was registered over the incident. PW10 further

stated that she accompanied the investigating officer of the case and police force to the police station where a GDE was lodged with regard to missing of the child and his mother. Two accused persons were arrested whom she identified in court. The lady accused was the mother of the victim child. The accused persons were brought from Guntur to Howrah after observing the legal formalities.

37. PW10 also stated that she had seen the CCTV footage of Secundrabad Railway Station. It was seen in the footage that the male accused deboarded from an Auto Rickshaw just outside the station carrying the bag which contained something. It was the similar bag as produced in court as Mat Exhibit 1. He was wearing the dress of a security and he did not enter through the main gate where security checking was in progress but he went towards the backside of the station. Thereafter the inside CCTV footage showed that he was entering and walking inside the station carrying the bag towards Falaknama Express which was standing on the station. He entered Falaknama Express with the bag and stayed inside for sometimes. Thereafter, he came down from the train empty handed. The I'O collected the CCTV footage during the investigation. The same was collected from the system maintained by the RPF of Secunderabad Railway Station; subsequently, they came back to Howrah.

38. An Assistant Sub-Inspector of police deposed as PW11. He stated that on January 24, 2016 one bag was recovered from the

compartment of down Falaknama Express at platform No. 22 of Howrah railway station bearing a logo as 'Diesl Sagar'. The bag contained naked dead body of a male child. He identified Mat. Ext. I as the said bag which was seized under a seizure list. He proved his signature on such seizure list as well as label attached to the seized bag. He also identified the dead child through the photographs. PW11 also stated that a case was started over the incident. He accompanied the investigating officer of the case and other police force to Tenali-1 police station on January 28, 2016 and reached there on January 29, 2016. On January 30, 2016 it was found that a missing diary was lodge in respect of the child and his mother namely, Sk. Jishan and Sk. Hasina sultana at Tenari one Town PS.

39. PW11 also stated that the police team visited the houses of the father of the child, the complainant Rousan Bee who happens to be grandmother of the child. She informed that her daughter had come back and provided her address. On such information, the police team visited the house of the mother of the victim and interrogated her. On such interrogation, the mother of the child informed that she had left with the other accused Vannur Sha accompanied by the victim child. Both the accused persons i.e. the mother of victim child namely Sk. Hasina Sultana and Vannur Sha were arrested. Their statements were recorded. They were brought to Howrah after observing the legal formalities.

40. An inquest witness deposed as PW 12. He stated that on January 24, 2016 he was travelling to Tata. At the request of the RPF personnel, he signed on the inquest report which he proved (Ext.2/3).

41. The landlord of the convicts was examined as PW13. The witness identified the appellants in court as the persons who were his tenants. He stated that the appellants lived in his house for 15 days and left without paying rent. He further stated that both of them resided with their child. The child was later not seen by PW13. On his query, the appellants told him that the child was sent to his grandmother's house. He identified the child through the photographs (Ext.18) who lived in his house with the appellants. He also stated that at the time of induction, the appellants introduced themselves as husband and wife but later on he came to know that the appellants were not husband and wife. He also stated that his son Shiva used to reside with him in the house a portion of which was let out to the appellants.

42. The grandmother of the victim child deposed as PW14. She identified the appellants in court. She stated that her daughter, Hasina Sultana was first married to one Riyaz. While she was pregnant, matrimonial disputes between them arose and the appellant Hasina Sultana started staying with her where she gave birth to a male child. PW14 also stated that when the appellant Hasina Sultana left her house she was again pregnant from her second husband i.e. the other appellant Vannur Sha. She further stated that her daughter

Hasina and her son went missing from her house whereupon she had reported the incident to the police. Her house was under the jurisdiction of Tenali-1 Town P.S. She had provided the photograph of her daughter Hasina and her son to the police so that they could trace them out. She identified her signature on the complaint lodged by her. She also stated that thereafter, she did not see her son. She had been to police station where she was interrogated. She was shown the photographs of the dead body of her grandson by police and she identified him through the photographs.

43. The investigating officer deposed as PW15. He identified the written complaint (Ext.1/1) and the formal First Information Report (Ext.19). Being endorsed with the investigation of the case, he visited the place of occurrence, prepared rough sketch map thereof with index and recorded statement of the available witnesses. He has described the various steps taken by him in course of investigation of the case. He seized the bag containing the dead body. He also went to Tenali-1 Police Station within Guntur district recorded the statement of witnesses, arrested the appellants, seized several documents as well as empty stripe of Cetrizine tablets and arranged for recording statement of the witnesses as well as that of appellant Hasina Sultana under Section 164 of the Code of Criminal Procedure. He also sent requisition for providing the CCTV footage of platform No. 1 of Secundrabad railway station and collected such footage in a compact

disc. He also collected the post mortem report. On completion of investigation, PW15 submitted charge sheet in the case. He identified the appellants in court.

44. Upon conclusion of the evidence of the prosecution, the appellants were examined in terms of Section 313 of the Code of Criminal Procedure. In such examination, the appellants pleaded innocence and denied having been connected with the offence. Appellant Hasina Sultana also stated in her examination under Section 313 of the Code of Criminal Procedure that she recorded her statement under Section 164 of the Code of Criminal Procedure as per the instructions and dictates of police. They however, declined to adduce any defence witness.

45. From the evidence led at the trial, it transpires that on January 24, 2016, a bag was recovered from inside the compartment of Dn. Falaknama Express standing on platform No. 22 of Howrah railway station. The bag was noticed by the key man. He informed of the said bag to the Station Manager and in turn, it was reported to the Government Railway Police Station, Howrah. PW2 has testified that he received information of the presence of a bag inside the train and being so informed, he issued a memo in this regard to the GRPS. PW1 has affirmed that a memo was received by the GRPS and on the basis of such memo, he attended platform No. 22. PW1 has also testified that upon reaching the spot accompanied by other police personnel

and Doms, he made the bag brought out. Upon opening the bag, it was found to contain naked dead body of a male child. Such recovery of dead body has been corroborated by PW4, PW5 and PW7.

46. PW1 conducted inquest over the dead body and thereafter, lodged a written complaint over the incident with the GRPS resulting in a specific case. The dead body was sent for post mortem examination.

47. The autopsy surgeon was examined as PW3. Upon conducting the post mortem examination over the dead body, PW3 found several injuries on the dead body namely,

- i. *“Bruise over the right cheek;*
- ii. *bruise on the entire anterior right arm; fracture of the right humerus at the lower end;*
- iii. *bruises on the two lips; bruise on the left cheek;*
- iv. *piecemeal fracture of the left humerus with surrounding bruises;*
- v. *6 nail scratches abrasion on the right anterior lower neck;*
- vi. *bruise on the mid-upper back;*
- vii. *abrasion of mid-sacral back;*
- viii. *bruise of right posterior neck one inch below right mastoid tip;*
- ix. *bruise on the right posterior elbow; scalp haematoma over the mid frontal scalp and sub-dural and extra-dural haemorrhage of both cerebral hemisphere along with bases.”*

48. PW3 prepared a report which he proved as Exhibit 7. Upon conclusion of the post mortem examination, PW3 opined that the

death of the victim was caused due to the effect of aforementioned injuries which were ante-mortem and homicidal in nature. According to PW3, the injuries found on the dead body showed vital reaction. Therefore, in view of the testimonies of PWs 1, 4, 5, and 7 together with that of PW3, it is evident that the victim child suffered an unnatural death.

49. So far as the person responsible for inflicting the fatal injuries upon the person of the victim is concerned, it is the case of the prosecution that the appellant Hasina Sultana happens to be the mother of the victim. She was married to one Riyaz and out of such wedlock the victim was born. However, the matrimonial relations between appellant Hasina Sultana and her husband went strained. She left her matrimonial house and started residing with her mother, PW14, where she gave birth to the victim. PW14 further stated in her deposition that, appellant Hasina Sultana, later, married the other appellant Sk. Vannur Sha and became pregnant out of such wedlock while still residing at her mother's house. However, the landlord, PW13, stated that while the two appellants were residing at his house, although, at the time of induction, they introduced themselves as husband and wife but later he came to know that they were not married.

50. Appellant Hasina Sultana, all of a sudden, went missing from the house of her mother with the victim child. PW14, her mother

lodged a complaint over the issue which resulted in a specific case registered at Tenali-1 Police Station. Such complaint lodged by PW14 was produced in this case (Ext. 11 series). After the instant case initiated, the investigating officer visited Tenali-1 PS and the house of PW14 and came to know of the complaint lodged by PW14. In course of investigation, it came out that the appellant Hasina Sultana eloped from the house of her mother accompanied by the victim child with the other appellant Sk. Vannur Sha and started residing at the house of PW13 on rent. Although, a question has been raised by the appellants that PW13 has not produced any document to establish that the appellants resided at his house as tenants but PW13 has come up with a definite case that the appellants left his house without paying rent thereof. Moreover, the defence has not been able to dislodge the testimony of PW13 in his cross-examination.

51. PW13 has testified that the two appellants stayed at his house on rent for 15 days and thereafter they left the house without paying rent. PW13 also confirmed in his deposition that the two appellants lived at his house with the victim child whom he identified through photographs. He also stated that when he did not see the child later, he enquired from the appellants about the child. On his query, the appellants told PW13 that the child was sent to his grandmother's house. We have noted that the grandmother lodged a missing complaint in respect of her daughter i.e. appellant Hasina Sultana and

her child. She, in her statement, categorically stated that she did not see the victim child after she lodged the missing complaint. It has also come out in evidence that in course of investigation, PW14 had informed the police that her daughter had returned but the victim child was not with her.

52. It is not disputed that PW14 informed the police that her daughter had returned without the victim child, the appellant Hasina Sultana was interrogated by police and on her leading statement which disclosed the address of the other appellant Sk. Vannur Sha, he was also interrogated. Following such interrogation, the two appellants were arrested.

53. PW10 had stated that she had seen the CCTV footage of Secundrabad railway station and that it was seen from the footage that the male accused deboarded from an Auto Rickshaw just outside the station carrying the bag which contained something. It was the similar bag as produced in court as Mat Exhibit 1. He was wearing the dress of a security and he did not enter through the main gate where security checking was in progress. Rather, he went towards the backside of the station. Thereafter, the inside CCTV footage showed that he was entering and walking inside the station carrying the bag towards Falaknama Express which was standing on the station. He entered Falaknama Express with the bag and stayed inside for sometimes. Thereafter he came down from the train empty handed.

The Investigating Officer collected the CCTV footage during the investigation. The same was collected from the system maintained by the RPF of Secunderabad Railway Station; subsequently, they came back to Howrah.

54. Admissibility of the CCTV footage was challenged on behalf of the appellants as it was not supported by the requisite certificate under Section 65B (4) of the Indian Evidence Act, 1872. However, the evidence led at the trial goes to show that a compact disc containing the CCTV footage of Secunderabad railway station was admitted in evidence and marked as Mat. Exhibit II. Contents of such compact disc were not proved and were not supported by a certificate under Section 65B of the Indian Evidence Act. PW10, in her deposition, described the contents of such compact disc. Since the compact disc is not supported by the requisite certificate and its contents have not been proved, we are not minded to rely upon such part of the testimony of PW10 or Mat. Exhibit II.

55. Nevertheless, evidence of PW14 establishes that the victim left her house in the company of appellant Hasina Sultana. PW13 testified that the two appellants stayed at his house with the victim child as tenants and left after 15 days. Not only that, PW13 also stated that when he did not see the child later on, he enquired about him from the appellants who informed him that the victim was sent to his grandmother. Such evidence establishes that the victim was last seen

alive with the two appellants and thereafter he disappeared, allegedly sent to the house of PW14. PW14 in her deposition stated that she last saw the victim alive when the appellant Hasina Sultana eloped from her house. She also reported the said appellant returned to her house without the victim child. In that view of the facts, the appellants were under obligation to explain the whereabouts of the victim child, since he was last seen living in the company of the two appellants. The appellants have not endeavoured to discharge such obligation in terms of Section 106 of the Indian Evidence Act, which necessarily entails an adverse inference.

56. At the same time, the appellants have also challenged the proof of the photographs of the victim. The victim is alleged to have been identified by the witnesses at trial through such photographs. PW14 in her examination has stated that she provided the photograph of the victim and the appellant Hasina Sultana to the police while lodging the missing complaint. Later on, photographs of the dead body of the victim was taken by police when it was discovered from inside a bag kept in a train at Howrah railway station.

57. In **Nasir Mallick** (supra), a Coordinate Bench held that,

“38. In this regard, however, it is not out of place to mention that the trial Court was also misled by Exbt.1. The photograph has been allowed to be marked as an exhibit, is not very happy way of admitting a document as per Evidence Act. According to Evidence Act a document which is not admissible in evidence

cannot be marked as an exhibit. In this case the photograph has been taken on record without calling for the negative and without getting the person who took this snap examined. Therefore, this part of the evidence cannot be held material for the purpose of any proof, the Trial Court mislead itself in relying upon Exbt.1.”

59. However, independent of the proof of the photographs, we have noted hereinabove, that the victim was last seen alive in the company of the two appellants and the appellants have not been able to explain the circumstances under which such victim went out of their company and was found dead.

60. The appellants further raised a point that a confessional statement was recorded by appellant Hasina Sultana under Section 164 of the Code of Criminal Procedure. Later, at the time of her examination under Section 313 of the Code of Criminal Procedure, she made out a case that such confessional statement was recorded by her under duress being tutored by police. It was contended that such confessional statement cannot be used against its maker as it was made under the dictates of police officer and the maker thereof retracted from it. At the same time, it cannot be used as against the other appellant without the prosecution bringing out some primary evidence. Moreover, it was contended on behalf of the other appellant, Sk. Vannur Sha that he was not confronted with such confessional statement in his examination under Section 313 of the Code of Criminal Procedure.

61. In ***Kashmira Singh*** (supra) it was noted that,

“Then, as regards its use in the corroboration of accomplices and approvers. A co-accused who confesses is naturally an accomplice and the danger of using the testimony of one accomplice to corroborate another has repeatedly been pointed out. The danger is in no way lessened when the “evidence” is not on oath and cannot be tested by cross-examination. Prudence will dictate the same rule of caution in the case of a witness who though not an accomplice is regarded by the Judge as having no greater probative value.”

62. Similarly in ***Prakash Kumar*** (supra), the Hon’ble Supreme Court observed to the following that,

“7. The prosecution could not adduce any other supporting evidence to prove the guilt of the appellant. Even based on the confession of the co-accused, the only allegation against the appellant is that he was in the company of the other co-accused and had pointed out towards the victim by making a sign whereupon the other accused overpowered the victim and took him forcibly in the Maruti van. To prove that the appellant was in the company of other accused, there is no other independent evidence. Even though the prosecution adduced other evidence to prove that the victim Babulal Misrimal Jain was forcibly taken and kept in unlawful custody, the complicity of the appellant could not be proved. The prosecution has failed to prove the case against the appellant.”

63. However, in the case at hand, independent of an alleged retracted confessional statement by one of the appellants, the appellants have failed to discharge their onus in terms of Section 106 of the Indian Evidence Act, to explain the circumstances under which

the victim suffered an unnatural death living in the company of the appellants. The evidence on records has sufficiently established that the victim was in the company of the appellants reasonably prior to his death.

64. The appellants have argued that PW13 had stated that her son, Shiva used to reside with him in the same house, a portion of which was let out to the appellants on rent. Such son of PW13 was not examined by prosecution as a witness. It has also been contended that the friend who arranged for the tenanted house for the appellants was not examined by the prosecution. In **Habeeb Mohd.** (supra), the Hon'ble Supreme Court observed that,

“13. In this situation it seems to us that Biabani who was a top ranking police officer present at the scene was a material witness in the case and it was the bounden duty of the prosecution to examine him, particularly when no allegation was made that if produced, he would not speak the truth; and, in any case, the court would have been well advised to exercise its discretionary powers to examine that witness. The witness was at the time of the trial in charge of the Police Training School and was certainly available. In our opinion, not only does an adverse inference arise against the prosecution case from his non-production as a witness in view of Illustration (g) to Section 114 of the Evidence Act, but the circumstance of his being withheld from the court casts a serious reflection on the fairness of the trial. It seems to us that the appellant was considerably prejudiced in his defence by reason of this omission on the part of the prosecution and on the part of the court. The reasons given by the learned Judge for refusing to summon Biabani do not show that the Judge

seriously applied his mind either to the provisions of the section or to the effects of omitting to examine such an important witness. The terms in which the order of the Special Judge is couched exhibit lack of judicial balance in a matter which required serious consideration.”

65. In the instant case, however, the son of PW13 cannot be considered as vital a witness as that was held in ***Habeeb Mohd.*** (supra). PW13 did approbate that the two appellants stayed in his house for 15 days on rent with the victim child. The son of PW13 could only be examined for the purpose of corroborating the testimony of PW13 and nothing more. The appellants had the opportunity of cross examining PW13 which they availed. In his deposition, PW13 has not described any person at whose instance; he inducted the appellants in his house. Therefore, non-examination of any such person or the son of PW13 or the father of the victim cannot, at any stretch, be termed as withholding of vital witnesses by the prosecution.

66. The investigating officer, seized photocopy of the birth certificate of the victim from PW14. It was contended on behalf of the appellants that photocopy of a document could not have been admitted in evidence. The authority in ***Ashok Dulichand*** (supra) as well as in ***U. Sree*** (supra), the Hon’ble Supreme Court on the basis of the facts and circumstances obtaining in the case and laid down the principles for leading secondary evidence in terms of the provisions of Section 65 of

Indian Evidence Act. However, in the present case, although, photocopy of the birth certificate was seized by police but such certificate has no bearing on the merits of the case. Independent of such certificate, it was established that the victim child was the son of the appellant Hasina Sultana which has not been denied. The child at first went missing from the house of his grandmother with such appellant and thereafter was removed from the custody of appellant Hasina Sultana and was ultimately found dead. In such circumstances, we do not think, the birth certificate of the victim child has any relevance and therefore, the ratio laid down in **Ashok Dulichand** (supra) and **U. Sree** (supra) has no manner of application in the facts and circumstances of the present case.

67. In **Devendra Prasad Tiwari** (supra), the Hon'ble Supreme Court laid down that,

“13. It is true that there is no direct evidence regarding commission of the aforesaid offence by the appellant and the prosecution case rests entirely on circumstantial evidence. It is also true that before a confessional statement made under Section 164 of the Code of Criminal Procedure can be acted upon, it must be shown to be voluntary and free from police influence and that the confessional statement made by the appellant in the instant case cannot be taken into account, as it suffers from serious infirmities in that (1) there is no contemporaneous record to show that the appellant was actually kept in jail as ordered on September 6, 1974 by Shri R.P. Singh, Judicial Magistrate, Gorakhpur, (2) Shri R.P. Singh who recorded the so called confessional statement of the appellant did not question him as to

why he was making the confession and (3) there is also nothing in the statement of the said Magistrate to show that he told the appellant that he would not be remanded to the police lock-up even if he did not confess his guilt. It cannot also be gainsaid that the circumstantial evidence relied upon by the prosecution must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused.”

68. Similarly, in the case of **Shivappa** (supra), the principles of reliability of a confessional statement was observed to the effect that,

“8. From a perusal of the evidence of PW 17, Shri Shitappa, Additional Munsif Magistrate, we find that though he had administered the caution to the appellant that he was not bound to make a statement and that if he did make a statement that may be used against him as evidence but PW 17 did not disclose to the appellant that he was a Magistrate and that the confession was being recorded by him in that capacity nor made any enquiry to find out whether he had been influenced by anyone to make the confession. PW 17 stated during his deposition in court: “I have not stated to the accused that I am a Magistrate” and further admitted: “I have not asked the accused as to whether the police have induced them (Chithavani) to give the statement.” The Magistrate, PW 17 also admitted that “at the time of recording the statement of the accused no police or police officials were in the open court. I cannot tell as to whether the police or police officials were present in the vicinity of the court”. From the memorandum prepared by the Munsif Magistrate, PW 17 as also from his deposition recorded in court it is further revealed that the Magistrate did not lend any assurance to the appellant that he would not be sent back to the police custody in case he did not make the confessional statement. Circle Police Inspector Shivappa Shanwar, PW 25 admitted that the sub-jail, the office of

the Circle Police Inspector and the police station are situated in the same premises. No contemporaneous record has been placed on the record to show that the appellant had actually been kept in the sub-jail, as ordered by the Magistrate on 21-7-1986 and that he was out of the zone of influence by the police keeping in view the location of the sub-jail and the police station. The prosecution did not lead any evidence to show that any jail authority actually produced the appellant on 22-7-1986 before the Magistrate. That apart, neither on 21-7-1986 nor on 22-7-1986 did the Munsif Magistrate, PW 17 question the appellant as to why he wanted to make the confession or as to what had prompted him to make the confession. It appears to us quite obvious that the Munsif Magistrate, PW 17 did not make any serious attempt to ascertain the voluntary character of the confessional statement. The failure of the Magistrate to make a real endeavour to ascertain the voluntary character of the confession, impels us to hold that the evidence on the record does not establish that the confessional statement of the appellant recorded under Section 164 CrPC was voluntary. The cryptic manner of holding the enquiry to ascertain the voluntary nature of the confession has left much to be desired and has detracted materially from the evidentiary value of the confessional statement. It would, thus, neither be prudent nor safe to act upon the confessional statement of the appellant. Under these circumstances, the confessional statement was required to be ruled out of consideration to determine the guilt of the appellant. Both the trial court and the High Court, which convicted the appellant only on the basis of the so-called confessional statement of the appellant, fell in complete error in placing reliance upon that statement and convicting the appellant on the basis thereof. Since, the confessional statement of the appellant is the only piece of evidence relied upon by the prosecution to

connect the appellant with the crime, his conviction cannot be sustained.”

69. In the case before us, however, we do not propose to proceed on the basis of confessional statement of appellant Hasina Sultana. The case is entirely based on circumstantial evidence. The victim child was last seen alive in the company of the appellants and the appellants have not attempted to explain the circumstances under which the victim child suffered an unnatural death while in their company.

70. The appellants have come up with a case that the offence, according to the case made out by the prosecution, was allegedly committed within the territorial limits of Secundrabad and as such, a court at Howrah had no jurisdiction to try the offence. For such reason, according to appellants, the trial is vitiated for want of proper territorial jurisdiction and consequently, the impugned judgment of conviction and order of sentence are bad in law. CHAPTER XIII of the Code of Criminal Procedure, 1973 deals with the jurisdiction of the criminal courts in enquiries and trials. We deem it appropriate to set out the provisions of Sections 177, 178 and 179 of the Code of 1973 which defines the ordinary jurisdiction of the court empowered to enquire or try an offence.

“177. Ordinary place of inquiry and trial.—Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

178. Place of inquiry or trial.—(a) When it is uncertain in which of several local areas an offence was committed, or (b) where an offence is committed partly in one local area and partly in another, or (c) where an offence is a continuing one, and continues to be committed in more local areas than one, or (d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

179. Offence triable where act is done or consequence ensues.—When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.”

71. In the case in hand, the appellants were convicted and sentenced for the offences punishable under Section 302/201/34 of the Indian Penal Code, 1860. According to the case made out by the prosecution, the appellants committed murder of the victim child in Secundrabad and with a view to cause disappearance of the evidence, packed the dead body in a bag and put the same in a train. The bag containing the dead body of the child was ultimately, recovered from the said train at Howrah railway station, resulting in the initiation of a case. The facts and circumstances of the case straightaway render the case triable by the court at Howrah in accordance with the provisions of Section 178 and 179 of the Code of 1973. In that view of the facts,

the objection raised on behalf of the appellants with regard to territorial jurisdiction of the court at Howrah to try such case has no legs to stand.

72. Therefore, in view of the discussions made hereinbefore, we find no substance to interfere with the findings of the learned trial court in so far as it relates to the conviction of the appellants for the offences punishable under Sections 302/201/34 of the Indian Penal Code. We affirm the impugned judgment of conviction.

73. So far as the impugned order of sentence is concerned, the appellants were sentenced to death penalty for the offence punishable under Section 302 of the Code of 1860. In course of hearing of the death reference and the connected appeals, we called for psychological evaluation report as well as socio-economic background assessment report from the state in respect of the appellants.

74. As per the psychological evaluation report, the appellant Sk. Vannur Sha is aged about 37 years and studied up to Class IX. On examination he was found kempt and tidy. The attitude towards the examiner was cooperative. Motor behaviour was within normal limits. His speech was spontaneous and goal-directed. Orientation to time, place and person was intact. General intelligence was found to be of average level. Objective affect was stable, appropriate, communicable, and reactive to stimulus with adequate range. Thought and perception was within normal limits. Such Findings suggested average level of

current intellectual functioning present. The psychological evaluation report in respect of the other appellant Sk. Hasina Sultana disclosed that there was no psychopathology detected in her and she was fit from psychological point of view.

75. The socio-economic assessment report in respect of Sk. Vannur Sha shows that the said appellant has his parents. The parents of the said appellant are illiterate and unable to maintain themselves. They are totally dependent upon the State Government old age pension. Besides himself, the appellant Sk. Vannur Sha had another brother who is absconded. According to such report there is no criminal antecedent of the appellant.

76. As regards as the other appellant Sk. Hasina Sultana, she is 34 years of age. Her father was a State vendor and has already expired. Her mother is about 67 years of age. The said appellant abandoned her husband. She studied upto intermediate. The report also states that there was no previous criminal antecedent of such appellant.

77. On consideration of the psychological report as well as socio-economic assessment report of the appellants goes to show that the appellants come from a very poor economical as well as educational background. No previous criminal antecedent has been reported against them. There is nothing adverse on record to establish any violent or bad behaviour of the appellants in the correctional home where they are presently lodged.

78. As regards the quantum of punishment, specially imposing of death penalty upon the appellants, various pronouncement by Hon'ble Supreme Court has laid down that death penalty should be resorted to in exceptional circumstances where the court awarding the sentence is able to return a finding that the case fell within the category of 'rarest of rare cases' and the possibility of reformation of the convict stood foreclosed. In order to hold a case as 'rarest of rare case' the Hon'ble Supreme Court has ordained to evaluate the circumstances on the parameters of 'aggravating circumstances' and 'mitigating circumstances'. That apart, in a case of murder, it is to be conclusively evaluated that the offence was committed in a manner which can be termed as cold blooded. At the same time, age of the convict is also relevant factor to be considered for awarding such punishment. The Hon'ble Supreme Court has noted time and again that a convict, too young or too old, should not be awarded with death penalty. In the facts and circumstances of the case, we are not in a position to arrive at a definite finding that any punishment other than death penalty would be insufficient and possibility of such punishment is totally foreclosed.

79. Therefore, taking into consideration the entire facts and circumstances of the case discussed hereinbefore, we are minded to commute the death sentence awarded to the appellants into one of life imprisonment. However, considering the age of the appellant as well

as other circumstances obtaining from the facts of the case, the imprisonment of life, so awarded to the appellant, shall mean imprisonment for life without remission until 40 years from the date of their arrest. The sentence awarded to the appellants for the offence punishable under Section 201/34 of the Indian Penal Code, however, stands affirmed. Both the sentences shall run concurrently.

80. Consequently, Death Reference No. 1 of 2024 along with the appeals being C.R.A. (DB) 71 of 2024 and C.R.A. (DB) 114 of 2024 are, accordingly, disposed of.

81. A copy of this judgment along with the Trial Court records be remitted to the appropriate Trial Court forthwith. In view of the commutation of the death penalty of Sk. Vannur Sha and Sk. Hasina Sultana, any warrant issued by the appropriate Court with regard thereto in respect of Sk. Vannur Sha and Sk. Hasina Sultana stands modified in terms of this judgment and order. Department will inform the Correctional Home, where the appellant is lodged, as to this judgment and order. The Correctional Home will record the fact of commutation of death penalty to the sentence awarded by this judgment and order in respect of Sk. Vannur Sha and Sk. Hasina Sultana, in their records.

82. Period of detention already undergone by the appellants shall be set off against the substantive punishments in terms of the provisions contained in Section 428 of the Code of Criminal Procedure.

83. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]

84. I agree.

[DEBANGSU BASAK, J.]