

**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

CRA (DB) No. 88 of 2022

Arvind Kumar Shaw

Vs.

State of West Bengal

For the appellant : Mr. Surajit Basu, Adv.
Mr. Arun Halder, Adv.
Ms. Jasika Alam, Adv.

For the State : Mrs. Amita Gaur, Sr. Govt. Adv.
Ms. Purnima Ghosh, Adv.

Heard on : 07.04.2025

Judgment on : 28.04.2025

Md. Shabbar Rashidi, J.:

1. The appeal is in assailment of judgment of conviction dated November 25, 2020 and order of sentence dated November 26, 2020 passed by

learned 1st Additional Sessions Judge, Howrah, in connection with Sessions Trial No. 89 of 2014.

2. By the impugned judgment and order, the appellant was convicted for the offence punishable under Section 302 of the Indian Penal Code, 1860 and was sentenced to undergo imprisonment for life with a fine of ₹10,000/- and in default of payment of fine, the appellant was directed to suffer rigorous imprisonment for a further period of six months.
3. According to the case made out by the prosecution, the appellant and the victim used to work as labourers at a tea stall belonging to the de facto complainant where other 7/8 labourers were employed. On September 16, 2013 the de facto complainant along with his labourers, was going to his house. Suddenly, at about 12.30 a.m. he saw an altercation between two of his labourers namely Raju Singh, the victim and the appellant Arvind Kumar. During such quarrel, Arvind Kumar brought out a knife from his behind and stabbed the victim Raju Singh in his stomach. Upon alarm raised by the de facto complainant and his labourers, the appellant pulled out the knife and fled away. All the efforts of the de facto complainant to catch the appellant went in vain.

4. The victim was taken by the de facto complainant to hospital in injured condition where the doctors declared him brought dead. The matter was immediately reported to Belur Police Station. On the basis of such report by way of a written complaint, Belur Police Station Case No. 321 dated September 16, 2013 under Section 302 of the Indian Penal Code was started against the appellant.
5. The police took up investigation and on completion of such investigation, submitted charge sheet against the appellant. Accordingly, on the basis of material in the case diary, the learned trial court framed charges against the appellant under Section 302 of the Indian Penal Code on January 4, 2016. The appellant denied the charge and claimed to be tried.
6. It was contended on behalf of the appellant that there was no previous enmity between the appellant and the victim. The incident took place in course of an altercation out of sudden provocation. It was further submitted on behalf of the appellant that death of the victim was caused without premeditation in a sudden fight in the heat of passion upon a sudden quarrel. The appellant did not take undue advantage or acted in a cruel or unusual manner in the incident. There was only single blow and thereafter, the appellant fled away. As such, according to learned advocate for the appellant, the appellant cannot be held

guilty of murder. In support of such contention, learned advocate for the appellant, relied upon **(2019) 11 Supreme Court Cases 381 (Sunny Khanna vs. State of Chhattisgarh)** and **(2003) 3 Supreme Court Cases 528 (Ghapoo Yadav and Others vs. State of M.P.)**.

7. On the other hand, learned advocate for the State submitted that the prosecution has led sufficient evidence at the trial and has been able to substantiate the charge under Section 302 of the Indian Penal Code, framed against the appellant beyond all reasonable doubts. As such, the impugned judgment and order should not be interfered with.
8. In order to bring home the charge, the prosecution examined 12 witnesses in all. Besides, prosecution also relied upon several documentary and material evidences.
9. The de-facto complainant deposed as PW1. He stated that he had a snacks stall at 73, G. T. Road, Liluah within Belur police station. At the time of incident, 7/8 employees including the victim and the appellant, used to work at his shop. He also stated that the appellant Arvind Kumar Shaw killed Raju Singh in the midnight of September 16, 2013 at about 12.30 a.m. PW1 further stated that this shop was situated in the ground floor of his house on the roadside. Some portion of the house was broken at the relevant time for the purpose of

reconstruction. There was a bedroom on the first floor of the building which was under the use of the employees of the shop.

10. PW1 further stated that after stabbing the victim, the appellant fled away from the said bedroom on the first floor with his knife. The victim was taken to T.L. Jaiswal Hospital where the doctor declared him brought dead. PW1 informed the police over telephone from the hospital itself. Police arrived in the hospital, thereafter, he lodged a written complaint. He proved the written complaint written in his pen and signature. PW1 also proved his signature on the seizure list under which police recovered and seized the offending knife from near Zero Miles Bar on G.T. Road, Liluah, Howrah, on September 16, 2013 itself. PW 1 proved the offending knife produced in court. He also identified the appellant in the dock. PW 1 was cross examined by defense but nothing favourable could be elicited.
11. PW 2 is an employee of the shoproom belonging to the de facto complainant. This witness failed to identify the appellant in court. He stated that the victim Raju Singh died on September 16, 2013. According to PW 2, there was a quarrel between Raju Singh and the appellant Arvind Kumar shaw on September 16, 2013. The appellant assaulted the victim with a knife on his chest. PW 2 mock up hearing the hue and cry whereupon the appellant started to flee away towards

G.T. Road. He further stated that after running some distance, the appellant threw away the knife. PW 2 accompanied by Dharambir Singh chased the appellant in court and brought him back to the spot where the occurrence took place.

12. PW 2 also stated that he along with Dharambir Singh and PW 1 took the victim to Jaiswal Hospital at Liluah by a rickshaw. The Doctor examined the victim and advised to take him to Calcutta Medical College & Hospital. They tried to call a taxi for the purpose but in the meantime the victim died. He also stated that the police visited the hospital as well as the place of occurrence and recovered the offending knife from a drain near Zero Miles shop over G. T. Road and seized the same under a seizure list. PW 2 proved his signature on the seizure list. He also identified the offending weapon.
13. A local resident deposed as PW 3. He stated that he knew the victim who used to work in the shop of PW 1. He died at about 12. 00/12. 30 a.m. on September 16, 2013. PW 3 further stated that at the relevant time he was walking along with others in front of his house. At that time he saw one person fleeing away with a knife in his hand and was going towards Liluah Don Bosco and he was being chased by some persons. The fleeing person, threw away his knife in a drain in front of Zero Miles Bar. PW 3 also stated that he along with the son of PW 1

detained the said person and identified him as the appellant. He also stated that at the information of PW 1, police arrived at the spot and recovered the knife under a seizure list. PW 3 was interrogated by police and his statement was recorded. He however, stated that he heard that the appellant assaulted the victim with a knife and fled away. After the incident the victim was taken to T. S. Jaiswal hospital where he expired subsequently. PW 3 identified the appellant in court.

14. A shop owner was examined as PW 4. He stated that since he had a stationery shop adjacent to hospital, he used to sell small knife used for the purpose of cutting fruits. There was the shop of PW 1 adjacent to his shop and the appellant used to purchase small glass from his shop. He further stated that on September 13, 2009 at 11.00/11.30, the appellant, who used to work in the shop of PW 1 came to his shop and asked for a big knife stating that PW 1 wanted the knife for cutting fruits. PW 4 also stated that he handed over a knife to the appellant for a consideration of ₹15/20-. He identified the appellant in court. He also identified the knife which was purchased from his shop.
15. The autopsy surgeon was examined as PW 5. He stated that on September 6, 2013 he was posted at Howrah District Hospital. On the said date he held post-mortem examination upon the dead body of one Raju Singh in connection with Belur P.S./U.D. Case No. 321/13 dated

September 16, 2013. He proved the post-mortem report prepared in his pen and signature. He opined that the death of the victim was caused due to the injuries as mentioned in his report which was ante mortem and homicidal in nature. In His Cross-Examination, PW 5 stated that it was not possible for him to say about the size of the weapon used.

16. Another medical officer of Howrah District Hospital deposed as PW 6. He has stated that on December 3, 2013 he conducted ossification test of the appellant and submitted his report on December 4, 2013. He proved his report and the x-ray plates.
17. The Judicial Magistrate was examined as PW 7. He stated that on December 2, 2013 he recorded the statement of one Swapan Das under section 164 of the Code of Criminal Procedure in connection with Belur P. S. Case No. 321 of 2013. PW 7 proved the statement recorded under his pen and signature.
18. A police officer was examined as PW 8. He stated that on September 16, 2013 he was posted at Belur police station as a constable. In such capacity, he carried the dead body of one Raju Singh from T. S. Jaiswal hospital to Mollick Fatak morgue under a dead body Chalan. He proved the dead body Chalan.

19. Another medical officer of T. L. Jaiswal hospital deposed as PW 9. He stated that on September 16, 2013 he was posted as a medical officer at T.L. Jaiswal hospital and examined one Raju Singh who was brought dead by Mahesh Singh, PW 1 at about 12. 50 a.m. in the emergency department of the hospital. He also stated that on examination he found the patient dead and he informed Belur police station. He proved the copy of such information.
20. A seizure list witness deposed as PW 10. He stated that on September 16, 2013 at about 8. 30 p.m., the nails, hair, wearing apparels etc. of the victim were seized by police under a seizure list which he signed. He identified his signature on the seizure list as well as the seized wearing apparels.
21. The Recording Officer was examined as PW 11. He stated that on September 16, 2013, he was posted at Belur Police Station as a Sub-Inspector of Police. In such capacity, he received a written complaint from one Mahesh Singh and endorsed the receipt on the written complaint itself. He further stated that upon receipt of the written complaint, he filled up the Formal First Information Report and started a police case. He proved the endorsement of receipt and the Formal First Information Report in his pen and signature.

22. The investigating officer deposed as PW12. He stated that on September 16, 2013, he was endorsed with the investigation of Belur Police Station Case No. 321 of 2013 dated September 16, 2013. He examined the de facto complainant at Belur Police Station whereupon the complainant corroborated his statement in the written complaint for which he did not record his statement. PW 12 further stated that at that time of such examination, it was reported that the miscreant was detained by the labourers of de facto complainant at Singkata. PW 12 accompanied by force and the de facto complainant went to Singkata and found 2/3 persons had detained one person. On interrogation, the said person identified himself as the appellant. He also confessed his guilt. The appellant was arrested by PW 12.
23. PW 12 also stated that during interrogation, the appellant disclosed that he will locate the place where he had kept the offending weapon. The appellant led PW 12 to a closed shop under the name and style of Zero Mile and identified the place where he had kept the offending knife. Accordingly, the offending knife was recovered, sealed and labelled and seized by PW 12 under a seizure list. He proved the seizure list.
24. In course of investigation, PW 12 visited the place of occurrence, prepared rough sketch map thereof, interrogated and recorded the

statement of witnesses. He also collected the blood stained earth from the place of occurrence under a seizure list. He also visited T.S. Jaiswal Hospital for conducting inquest over the dead body but for insufficient light at 4.30 a.m. he could not perform the inquest in the hospital. It was later done at the police station. PW 12 also forwarded the appellant to court and sought police remand which was allowed. During the police custody, the appellant disclosed the shop from where he purchased the knife. He was taken to the shop and was identified by the shop owner as the purchaser of knife two days prior to the Vishwakarma Puja. PW 12 also collected the post mortem report of the victim. He also arranged for ossification test of the appellant where his age was determined as above 18 years but below 20 years. PW 12 also sent the seized articles to Forensic Science Laboratory for examination. On completion of investigation, he submitted charge sheet.

25. Upon conclusion of the evidence of the prosecution, the appellant was examined under Section 313 of the Code of Criminal Procedure. The appellant denied the incriminating evidence appearing against him and pleaded innocence. He however, refused to adduce any defense witness.

26. The appellant was convicted of the offence punishable under Section 302 of the Indian Penal Code for intentionally causing death of the victim Raju Singh. According to the case made out by the prosecution, the appellant had an altercation with the victim. Both of them used to work at the tea stall of the de facto complainant. In course of such altercation, the appellant stabbed the victim. As a result of such stabbing, the victim sustained bleeding injuries and he died. The autopsy surgeon (PW 5) deposed at the trial that in his opinion, death of the victim was caused due to injuries mentioned the post mortem report (Ext. 3) which was ante mortem and homicidal in nature. Ext. 3 shows one puncture stab wound over right upper abdominal wall which had pierced through the liver and extending up to right lung. It is evident from the deposition of PW 5 as well as testimony of Exhibit 3 that the victim died an unnatural death caused due a stab injury which was ante mortem and homicidal in nature.
27. As to the person responsible for inflicting the ante mortem homicidal injury, it is the case of the prosecution that the appellant perpetrated such injury in course of an altercation with the victim. PW1 has testified that it was the appellant who perpetrated the stab injury up on the victim. PW 2 has also stated that on September 16, 2013 there was a quarrel between the victim and the appellant and in course of

such quarrel, appellant assaulted the victim with a knife on his chest. He also testified that he along with one other person Dharambir Singh chased and apprehended the victim after the incident. Such fact was corroborated by the investigating officer, PW 12, in whose presence, the information of apprehension of the appellant by some of the employees of de facto complainant was received. On the basis of such information, PW 12 proceeded to the place of occurrence and arrested the appellant. There is evidence that the appellant himself led to the recovery of the alleged offending weapon. PW 1 has stated that he took the victim to T.S. Jasiwal Hospital immediately after the incident. PW 9 has testified that the victim was brought to hospital by PW 1 in an injured condition. Therefore, on the basis of such evidence led at the trial, there appear no qualms that the appellant is the only person responsible for inflicting fatal injury upon the victim as a result of which, the victim died an unnatural death.

28. So far as the conviction of the appellant under Section 302 of the Indian Penal Code, 1860 is concerned, Section 300 of the Code defines murder in following words:

“300. Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Exception 1.—When culpable homicide is not murder.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Exception 2.—Culpable homicide is not murder if the offender in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.”

29. For brevity of discussion, it would be apposite to set out Section 299 of the Indian Penal Code which defines the offence of Culpable Homicide. It reads as:

“299. Culpable homicide.—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.”

30. In the instant case, as it transpires from the evidence on record, the appellant had an altercation with the victim on the date and time of occurrence. Such altercation is not preceded by any previous enmity. There is nothing to suggest that the two persons had any relationship or connection with each other. There is no evidence that the victim and the appellant had previous disputes. The squabble between the victim and the appellant broke out all on a sudden at the time of incidence. The evidence is also silent about the cause or point of altercation between the two. Not only that, the conduct of the appellant in fleeing away after the incident merely emboldens that the incident took place out of sudden provocation. There is nothing on record to suggest that the appellant took any undue advantage over the victim in the incident. Exhibit 3 goes to show that the appellant inflicted only one injury which caused the death of the victim. If that be so, we are of the opinion that the incident squarely falls within the Exception-4 appended to Section 300 of the Indian Penal Code, 1860. The facts and circumstances of the case as manifested from the evidence on record reasonably suggests that the incident took place in course of an altercation between the appellant and the victim and the appellant did the act with the knowledge that it was likely to cause

death, but he had no intention to cause death, or to cause such bodily injury as was likely to cause death of the victim.

31. PW 12 has stated that he interrogated the appellant and as shown by him, the offending weapon was allegedly recovered. However, there is nothing on record that the statement of appellant was recorded under Section 161 of the Code of Criminal Procedure. No such statement was proved at the trial in order to press Section 27 of Indian Evidence Act into service. Moreover, mere recovery of alleged offending weapon, in no way, brings the case out of the purview of Exception-4 appended to Section 300 of the Indian Penal Code.

32. In **Ghapoo Yadav** (supra), the Hon'ble Supreme Court laid down that,

“10. The fourth exception of Section 300 IPC covers acts done in a sudden fight. The said exception deals with a case of prosecution not covered by the first exception, after which its place would have been more appropriate. The exception is founded upon the same principle, for in both there is absence of premeditation. But, while in the case of Exception 1 there is total deprivation of self-control, in case of Exception 4, there is only that heat of passion which clouds men's sober reason and urges them to deeds which they would not otherwise do. There is provocation in Exception 4 as in Exception 1; but the injury done is not the direct consequence of that provocation. In fact Exception 4

deals with cases in which notwithstanding that a blow may have been struck, or some provocation given in the origin of the dispute or in whatever way the quarrel may have originated, yet the subsequent conduct of both parties puts them in respect of guilt upon equal footing. A “sudden fight” implies mutual provocation and blows on each side. The homicide committed is then clearly not traceable to unilateral provocation, nor could in such cases the whole blame be placed on one side. For if it were so, the exception more appropriately applicable would be Exception 1. There is no previous deliberation or determination to fight. A fight suddenly takes place, for which both parties are more or less to be blamed. It may be that one of them starts it, but if the other had not aggravated it by his own conduct it would not have taken the serious turn it did. There is then mutual provocation and aggravation, and it is difficult to apportion the share of blame which attaches to each fighter. The help of Exception 4 can be invoked if death is caused : (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the “fight” occurring in Exception 4 to Section 300 IPC is not defined in the Penal Code, 1860. It takes two to make a fight. Heat of passion requires that there must be no time for the passions to cool down and in this case, the parties have worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two and more persons whether with or without

weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in a cruel or unusual manner. The expression "undue advantage" as used in the provision means "unfair advantage".

11. In the case at hand, out of the seven injuries, only Injury 2 was held to be of grievous nature, which was sufficient in the ordinary course of nature to cause death of the deceased. The infliction of the injuries and their nature proves the intention of the accused-appellants, but causing of such injuries cannot be termed to be either in a cruel or unusual manner for not availing the benefit of Exception 4 to Section 300 IPC. After the injuries were inflicted the injured had fallen down, but there is no material to show that thereafter any injury was inflicted when he was in a helpless condition. The assaults were made at random. Even the previous altercations were verbal and not physical. It is not the case of the prosecution that the accused-appellants had come prepared and armed for attacking the deceased. The previous disputes over land do not appear to have assumed the characteristics of physical combat. This goes to show that in the heat of passion upon a sudden quarrel followed by a fight the accused persons had caused injuries on the deceased, but had not acted in a cruel or unusual manner. That being so, Exception 4 to

Section 300 IPC is clearly applicable. The fact situation bears great similarity to that in Sukhbir Singh v. State of Haryana [(2002) 3 SCC 327 : 2002 SCC (Cri) 616] . The appellants are to be convicted under Section 304 Part I IPC and custodial sentence of 10 years and fine as was imposed by the trial court would meet the ends of justice. The appeal is allowed to the extent indicated above.”

33. Similarly in **Sunny Khanna** (supra), it was observed by the Hon’ble Supreme Court that,

“7. So far as the conviction of the appellants under Section 302 IPC regarding the death of Irfan alias Golu is concerned, from the evidence of Salim Khan (PW 10) it emerges that when preparation was going on to burn Holika and when they were all standing there, juvenile accused Chotu was using abusive language and Irfan alias Golu asked Chotu to stop using abusive language and there were heated arguments, scuffle and sudden fight between them. It is in these circumstances, the juvenile accused Chotu inflicted injuries on deceased Irfan alias Golu while the appellants herein held the deceased Irfan alias Golu. As the occurrence took place in the course of sudden fight between the deceased and the accused party, the occurrence would fall under Exception 4 to Section 300 IPC. The injuries inflicted on the deceased Irfan alias Golu is on the backside piercing the left lung which shows the intention of the juvenile accused who inflicted the injury. Keeping in view the nature of the injuries and considering the fact that the appellant-accused had not taken undue

advantage of the deceased and in the facts and circumstances of the case, the conviction of the appellants under Section 302 IPC read with Section 34 IPC is modified as the one under Section 304 Part I IPC. It is submitted that both the appellants have undergone imprisonment for more than ten years.”

34. As noted above, in the case at hand, there is no evidence on record the appellant had previous enmity with the victim or the attack upon him was premediated. Evidence goes to show that the appellant inflicted the stab blow upon the victim under sudden provocation in the midst of an ongoing altercation. There is nothing on record to establish that such provocation was voluntarily invited by the appellant. In such view of the facts, considering Exception 4 appended to Section 300 of the Indian Penal Code and applying the ratio laid down in the case of **Ghapoo Yadav** (supra) and **Sunny Khanna** (supra), we are of the opinion that the appellant ought to have been convicted of the offence punishable under Section 304 of the Code of 1860.
35. In the light of discussions made hereinabove, we do hold that the appellant is the person who inflicted the fatal injury upon the victim but the facts and circumstances of the case, nature of injury and subsequent conduct of the appellant does suggest that the appellant

should be held guilty of offence punishable under Section 304 of the Indian Penal Code instead of Section 302 of the Penal Code.

36. Consequently, we modify the impugned judgment and convict the appellant for the offence punishable under Section 304 of the Indian Penal Code. We also modify the impugned order of punishment imposed upon the appellant to rigorous imprisonment for ten years instead of imprisonment for life. We however, affirm the impugned order of conviction so far as it relates to fine of ₹10,000/- and imprisonment in default of payment of fine imposed.
37. The period of detention undergone during investigation, enquiry and trial shall be set off against the substantive punishment imposed in terms of Section 428 of the Code of Criminal Procedure, 1973.
38. The instant appeal being CRA (DB) 88 of 2022 is accordingly disposed of. Connected applications, if any, shall also stand disposed.
39. Urgent Photostat certified copy of this judgment and order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

[MD. SHABBAR RASHIDI, J.]

40. I agree.

[DEBANGSU BASAK, J.]