

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE
FROM PRINCIPAL BENCH**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

CRA (DB) 54 of 2024

Niranjan Mondal

vs.

The State of West Bengal

with

DR/3/2024

Niranjan Mondal

vs.

The State of West Bengal

For the Appellant : Mr. Sourav Ganguly, Advocate
(in virtual platform)
Mr. Avishek Sarkar, Advocate
Mr. Gopal Roy, Advocate
Ms. Rishita Chakraborty, Advocate

For the State : Dr. Arjun Chowdhury, Advocate
(in virtual mode)

Heard on : 24.04.2025

Judgment on : 24.04.2025

DEBANGSU BASAK, J.:-

1. Death Reference and the Criminal Appeal are taken up for analogous hearing as they emanate out of the same judgment of conviction and the order of sentence.
2. The appellant was convicted of murder by the impugned order of judgment of conviction and was sentenced with death penalty by the impugned order of sentence.
3. In respect of a murder, a police complaint was lodged on June 6, 2023 by the sister of the victim. Such police complaint was registered as FIR No. 463/2023 dated June 6, 2023 under Section 302 of the Indian Penal Code, 1860 by the Bhaktinagar Police Station. The police complaint was investigated into and charge sheet submitted as against the appellant. Charges as against the appellant *inter alia* under Section 302 of the Indian Penal Code was framed on December 14, 2023.
4. In order to bring home the charge of murder, prosecution examined 18 prosecution witnesses.
5. Of the 18 prosecution witnesses, prosecution witness nos.1, 2, 3, 4 and 6 can be classified as eyewitnesses.
6. Prosecution witness no.1 is the sister of the victim. She lodged the police complaint which was marked as exhibit at the trial. She

stated that, she saw the appellant using a sharp cutting weapon to assault the victim due to which, the victim fell down and died.

7. This version of P.W.1 is corroborated by P.W.2, 3, 4 and 6 who are independent witnesses.
8. The Tea Stall Owner where the incident occurred deposed as P.W.3. He corroborated the version of P.W.2.
9. The colleague of the victim deposed as P.W.2 and also corroborated the version of P.W.1 and 3.
10. P.W.5 is a post occurrence eyewitness who saw the appellant at the place of occurrence.
11. P.W.8 and 9 are post occurrence witnesses who saw the appellant at the place of occurrence.
12. P.W.7 is the father of the victim who spoke about previous enmity between the appellant and the victim due to theft of a rickshaw. His version is corroborated by P.W.10 who is wife of the victim as also the P.W.11 who is the mother of the victim.
13. P.W.13 is the police employee who is a post occurrence witness and who apprehended the appellant at the time of incident.
14. P.W.14 to 18 are police personnel who deposed as to the nature of their role in the entire incident.
15. Post Mortem Doctor was not examined at the trial. However, the Post Mortem report was tendered in evidence and marked Exhibit-9.

16. Post Mortem Report noted several wounds on the body of the victim and states that, death was due to the effects of the injuries as noted above ante mortem and homicidal in nature.
17. In view of the evidence led at the trial, particularly in view of Exhibit-9 coupled with the testimony of the ocular witnesses being P.W.1, 2, 3, 4 and 6 as also P.W.8 and 13, we are of the view that, the victim was murdered and that, the appellant murdered the victim stood conclusively established at the trial.
18. Consequently, we find no ground to interfere with the judgment of conviction of the appellant of murder as returned by the learned Trial Judge.
19. Issue is whether or not to confirm the death penalty imposed by the learned Trial Judge in the impugned order of sentence.
20. Coordinate Bench by an order dated January 30, 2025 required psychological evaluation of the appellant before us to be undertaken by the State and a report with regard thereto be submitted.
21. Pursuant to such direction, State submitted a report dated April 21, 2025 from which it transpires that, the appellant is suffering from chronic Schizophrenia requiring continuous pharmacotherapy and psychotherapy.

22. We are conscious of the ratio of the decision of the Hon'ble Supreme reported in **(2023) 2 SCC 353 (Manoj & Ors. Vs. State of Madhya Pradesh)**.
23. The incident of murder, as it occurred, and as established at the trial, is that, the appellant used a sharp cutting weapon to inflict injuries on the neck region of the victim in the morning in a public place. The incident of murder as narrated by the eyewitnesses and as established at the trial cannot be classified as the rarest of rare cases or to be imbued with such brutality so as to shock the conscience of the Court and impose death penalty.
24. In such circumstances, we are of the view that, the death penalty imposed on the appellant is required to be commuted to one of life imprisonment since, appellant was rightly found guilty of murder of the victim. We therefore commute the death penalty to one of life imprisonment.
25. **CRA (DB) 54 of 2024 along with DR/3/2024** are **disposed of** accordingly.

(Debangsu Basak, J.)

26. I agree.

(Md. Shabbar Rashidi, J.)