

Form No. J(1)

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

Present :

**The Hon'ble Justice Rajasekhar Mantha
And
The Hon'ble Justice Md. Shabbar Rashidi**

**C.R.A. 424 of 2016
With
I.A. No. CRAN 2 of 2023**

**Bijoy Singh
Versus
The State of West Bengal**

For the Appellant : Mr. Bibaswan Bhattacharya,
Mr. Sourat Nandy,
Mr. Poonnug Roy.

For the State : Mr. Debasish Roy, Ld. P.P.
Mr. Partha Pratim Das,
Mrs. Manashi Roy.

Heard on : 22.01.2026 & 17.02.2026

Judgment on : 17.02.2026.

Rajasekhar Mantha, J.:

1. The subject appeal is directed against judgment of conviction dated 26th April, 2016 and the order of sentence dated 27th April, 2016 passed by the learned Additional Sessions Judge, 17th Court at Alipore in Sessions Trial No. 03(01)2013 arising out of Sessions Case No. 09(03)2012. The appellant was convicted under Section 302 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for life and

to pay a fine of Rs 20,000. In default thereof, to suffer further rigorous imprisonment for two months.

PROSECUTION CASE, THE EVIDENCE ON RECORD AND ANALYSIS OF THIS COURT :

2. On 22nd April, 2010, **PW-1, Rumi Mondal**, the complainant and daughter of the victim, sometime in the second half of the day lodged a complaint with the Thakurpukur Police Station. In her complaint stated that she and her mother, Smt. Jyotsna Mondal (deceased victim) had gone to the house of her Aunt (mother's sister), **Purnima Goyali (PW-2)**.

3. At that time, PW 2 was talking with some prospective tenants. The victim Jyotsna Mondal had gone to the first floor of the house. At around 10:30 A.M., the appellant rushed into the said house and went to the first floor where the victim was present. The evidence of PW 1 indicates the appellant used to advance indecent proposals to the victim after demise her husband. The victim refused the same.

4. There was altercation between the victim and the appellant. The victim was shouting that she would disclose something.

5. Upon hearing the cries of the victim, PW 1 and PW 2 rushed to the first floor and found the appellant assaulting the victim with fists and blows and thereafter strangled her.

6. After the incident, the appellant is stated to have escaped from the house on the two wheelers Scooty Bike of PW-2. The victim was thereafter rushed to Vidyasagar Hospital by the PW-1, PW-2 and PW-5.

7. The victim was declared dead upon arrival at the Hospital. PW 1 went thereafter to Thakurpukur Police Station to lodge the complaint mentioned hereinabove. The complaint was reduced to a formal FIR by PW-9, Pranati Saha, a Police Constable.

8. Investigation was conducted by PW-10. The most important witnesses of the prosecution are PW-1 and PW-2, who witnessed the incident.

9. Learned Counsel appearing on behalf of the appellant would argue that there was a difference between the versions of PW-1 and PW-2. While PW-1 has deposed that the appellant assaulted the victim with fists and blows and thereafter strangled her. PW-2, however did not mention of any strangling.

10. This Court notes that it is quite possible that the PW-1 and PW-2 may have seen the incident from different vantage points. PW 2 may not have seen the act of strangulation.

11. PW 2 followed PW 1 to the first floor. Thus, PW 1 was the first to enter into the PO. She thus had the best and clear visibility of the PO and thus also of the acts of the appellants. PW 2, however saw the appellant assaulting the victim behind the back of PW 1. PW 1 is thus a more authentic and comprehensive witness of the acts of the appellant in the room.

12. The aforesaid difference is not a contradiction. The difference could have arisen from the different physical position of PW 1 and PW 2 at the PO.

13. The appellant fled the PO upon noticing PW 1 and PW 2 thereat. The appellant noticed PW 1 first. The appellant thus upon seeing PW 1 may have continued to rain fist blows on the victim after strangulating the victim and escaped. PW 2, therefore, may not have actually seen the act of strangling. The appellant, in fact, immediately escaped thereafter by stealing the scooter of PW 2.

14. Further, the medical evidence has established the act of strangulation. The injuries on the victim and the cause of death and the ligature mark on her neck, as certified by PW-8, Post Mortem Doctor read with the evidences of PW-1 and PW-2 has clearly establish the role of the appellant in the commission of the crime.

15. PW 4, PW 5, and PW 6 were neighbours of the victim. All of them heard hue and cry of the victim from the house of the PW 2 where the victim went. PW 6 in fact has seen the appellant leaving the house of PW 2. Thus, the presence of the appellant at the PO followed by the hue and cry of the victim has established a causal connection between the appellant and the victim as regards the crime.

16. The role of the appellants in the murder of the victim is further corroborated by the evidence of PW-2. She has deposed that she did not find the keys of her Scooty immediate after the incident. This is further

corroborated from the evidence of PW-10 that the Scooty was recovered two days after the incident in front of a Cinema Hall. The prosecution, therefore, has been able to clearly establish that the appellant after committing the crime had fled away from the place of occurrence on the Scooty of PW-2.

17. Learned Counsel appearing on behalf of the appellant would next argue that based on the evidence of PW-7, a local resident, it could be said that the prosecution case has no legs to stand. PW-7, Bulbuli Mitra, a local resident has deposed that she had seen the appellant holding the body of the victim riding pillion on a Scooty to take her to Hospital. The driver of the Scooty could not, however, be identified by PW-7.

18. This Court is of the view that the evidence of PW-7 cannot be taken seriously since there is no evidence on record to indicate that she was interrogated by the police immediately after the incident.

19. PW-7 did not say anything in this regard in her examination-in-chief. It is only in cross-examination that PW-7 for the first time stated that it is the appellant who drove the scooty to take the victim to the hospital.

20. Further, PW 7 is an interested witness. She has deposed that the appellant was a friend of her brother. The appellant used to visit the house of PW 7. Very strangely, PW 7 deposed that he has asked the appellant not to come to his house since PW 7 has no space in his rented house. PW 7 has further deposed that on the scooter apart from the

appellant and victim, he also saw a boy. He was unable to identify the boy. It is out of normal that three persons will travel in a scooter, one of whom is an injured and unconscious. The evidence of PW-7 is, therefore, completely unreliable.

21. Notably, none of the other witnesses have stated that the appellant had any role to play in taking the victim to the hospital. On the contrary, the appellant had fled from the place of occurrence after the incident. His absconding for a period of nearly one year after the incident and the recovery of the scooter of PW-2 from the front of a local cinema hall completely belies the evidence of PW-7.

22. Learned counsel for the appellant next argued that several witnesses were not examined by the IO and had deposed for the first time in Court.

23. This Court notes in the evidence of PW-10, the IO, that he had clearly examined PW-1 and PW-2 several times immediately after the incident. There were several other witnesses of the prosecution who are also examined and statements recorded.

24. Having regard to the above, the last question that needs to be addressed is as to whether the actions of the appellant in strangulating the victim could be deemed as a crime of passion and actuated by the incidents in the spur of the moment.

25. This Court is unable to come to such conclusion since not only had the appellant inflicted fists and blows on the victim, but he had

strangled her to death. The death was indeed caused by strangulation and the hyoid bone of the victim was crushed. This is clear from the medical evidence on record.

26. The appellant had the motive to commit the crime. The victim did not accede to the indecent proposals of the appellant. The appellant had no reason to be at the house of PW 2. The appellant thus followed the victim and her daughter to the house of PW 2. The last words of the victim were that she would disclose something that would expose the appellant. The appellant therefore assaulted and strangled the vital organ of victim i.e. the neck.

27. Having regard to the aforesaid discussions, this Court is of the clear view that the impugned judgement of conviction and sentence of the appellant by the Trial Judge calls for absolutely no interference.

28. Hence, CRA 424 of 2016 is dismissed. Consequently, pending connected application being CRAN 2 of 2023 is also dismissed.

29. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

I agree.

(Md. Shabbar Rashidi, J.)