

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

DR 7 of 2023
The State of West Bengal
Vs.
Susanta Chowdhury

With

CRA (DB) 349 of 2023
Susanta Chowdhury
Vs.
The State of West Bengal

For the Appellant : Mr. Kallol Mondal Ld. Sr. Adv.
 Mr. Krishan Ray, Adv.
 Mr. Anamitra Banerjee, Adv.

For the State : Mr. Debashish Roy, Ld. PP
 Mrs. Amita Gaur, Adv.
 Mrs. Shaila Afrin, Adv.

Hearing Concluded on : May 23, 2025
 Judgement on : June 11, 2025

DEBANGSU BASAK, J.:-

1. A death reference and an appeal have been heard analogously as they relate to the same impugned judgment of conviction dated August 29, 2023 and order of sentence dated August 31, 2023 passed by the Fast Track, Third Court, Behrampore, Murshidabad in Session Serial No. 1387 of 2022

convicting the appellant under Section 302 of the Indian Penal Code and under Section 28 of the Arms Act and sentencing the appellant to death.

2. Appellant not being represented on several dates of hearing of the death reference and the appeal we had appointed the learned Senior Advocate and the learned Junior Advocate appearing for the appellant, as advocates for the appellant and requested the Secretary, State Legal Services Authority to regularize such appointment, which was done.

3. Learned Senior Advocate appearing for the appellant has submitted that, the prosecution failed to prove the charges beyond reasonable doubt. He has submitted that, Prosecution Witness (PW) No. 3 has stated in his deposition that, apart from himself, there were other employees of his present at the place of occurrence. However, such employees have not been examined by the prosecution. According to him, this failure to examine all the eyewitnesses violates the principles of fair trial as has been laid down in **2004 Volume 13 Supreme Court Cases 308 (State of Madhya Pradesh versus Dharkole alias Govind Singh and others)**.

4. Learned Senior Advocate appearing for the appellant has submitted that, trial Court placed undue reliance on the testimonies of PW 2 and PW 3, which is without corroborative support from independent and neutral witnesses. According to him, the same impinges upon the veracity of the testimonies of those prosecution witnesses. The learned trial judge has erred in not disbelieving them. He has contended that, the testimony of PW 2 where he claimed that, despite being threatened with a gun, he proceeded to video record the incident should be disbelieved. Similarly, the claim of PW 3 that, he called the police should be disbelieved as the same did not result in registration of a first information report. He has also pointed out the conduct of PW 4 who resided near the place of occurrence and did not become aware of the incident although, the other 2 witnesses had seen the incident with such clarity.

5. Referring to the digital evidence, learned Senior Advocate appearing for the appellant has contended that, learned trial Court accepted closed-circuit television footage and a video allegedly recorded by PW 2 as conclusive proof without establishing the chain of custody or ensuring

compliance with the mandatory requirements of section 65B of the Indian Evidence Act. In this regard, he has relied upon **2020 Volume 7 Supreme Court Cases 1 (Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal and others)**.

6. Learned Senior Advocate appearing for the appellant has contended that, the forensic evidence introduced at the trial, particularly the gait analysis is scientifically inconclusive as it is yet to be and universally accepted a valid method of identification.

7. Learned Senior Advocate for the appellant has submitted that, the purported incident occurred in the context of a failed personal relationship and appears to have been triggered by intense emotional disturbance and heartbreak. According to him, the prosecution has not been able to establish that the act was cold-blooded or meticulously planned. Rather, the incident appears to be a spontaneous act of emotional collapse. He has pointed out to the date of birth of the appellant and referred to **1999 Volume 5 supreme Court Cases 702 (Sunil Baban Pingale vs. State of Maharashtra)** that age should be considered as a mitigating circumstance, in favour of the appellant.

8. On the aspect of death penalty, learned Senior Advocate appearing for the appellant has relied upon **1983 Volume 3 Supreme Court Cases 470 (Macchi Singh and others versus State of Punjab)**, **2009 Volume 6 Supreme Court Cases 498 (Santosh Kumar Satishbhusan Bariyar versus State of Maharashtra)**, **1980 Volume 2 Supreme Court Cases 684 (Bachan Singh versus State of Punjab)**, **2012 Volume 4 Supreme Court Cases 37 (Rajendra Pralhadrao Wasnik versus State of Maharashtra)** and **2013 Volume 5 Supreme Court Cases 546 (Shankar Kisanrao Khade versus State of Maharashtra)**. He has also has relied upon **2011 Volume 2 Supreme Court Cases 764 (Rameshbhai Chandubhai Rathod vs. State of Gujarat)**, **2018 SCC OnLine Cal 6911 (State of West Bengal vs. Sukol Tudu alias Chhattu)** and **2025 SCC OnLine Cal 3491 (Niranjana Mondal vs. State of West Bengal)** in this regard.

9. Learned Senior Advocate appearing for the appellant has drawn the attention of the Court to the report submitted by the State pursuant to the order dated May 1, 2025 with regard to the health and mental condition of the appellant. He

has contended that, the appellant was suffering from depression for a given point of time. He has also referred to the educational qualification of the appellant and contended that, the appellant does not deserve a death penalty.

10. Learned Public Prosecutor appearing for the State has contended that charge of murder as against the appellant stands proved beyond reasonable doubt at the trial. In such context, he has referred to the deposition of the eye-witnesses at the trial as also the close circuit television footage which were marked as Exhibit at the trial. He has pointed out that, the victim lodged a general diary being Exhibit 21, long prior to the incident as against the appellant. It has come out in the evidence that, the appellant used to harass the victim.

11. Police had received a written complaint dated May 2, 2023 which was registered as the First Information Report on such date by the police. Police had investigated such complaint and submitted a chargesheet dated July 14, 2022, inter alia, under Section 302 of the Indian Penal Code and Section 28 of the Arms Act, 1959.

12. By an order dated September 5, 2002 charges as against the appellant had been framed under Section 302 of

the Indian Penal Code and under Section 28 of the Arms Act, 1959. Essentially, the appellant has been charged with the murder of the victim on May 2, 2022 at about 6:35 PM on the road in front of the gate of the house belonging to PW 4 and being found to be in possession of an imitation firearm and trying to make an attempt to use such firearm with an intention to resist or prevent lawful arrest and detention after commission of the murder.

13. In support of such charges, prosecution has examined 34 witnesses and tendered various documents which were marked Exhibits as well as material evidence which were marked as Material Exhibits, at the trial.

14. The doctor who conducted the post mortem of the deceased has deposed as PW 1. He has stated in his evidence that, he received the dead body of the deceased from a Sub-Inspector of Police for holding the post mortem examination on May 2, 2022. He has stated that, during post-mortem examination he found 45 number of injuries over the dead body of the deceased. He has tendered the post mortem report which was marked as Exhibit 1. He has stated that, subsequent to the post mortem examination, several queries

were made by the requisition dated August 26, 2022. Along with such requisition, one Exhibit D was sent to him being a knife along with a copy of the post mortem report and order of the learned Chief Judicial Magistrate, Murshidabad dated July 25, 2022. He has identified such knife which was marked as Material Exhibit 1. He has also identified various other documents which were tendered in evidence and marked as Exhibits. He has stated that, he preserved the viscera report of the deceased, Post mortem blood without preservative, blood soaked with blotting paper, nail cutting with nail scrapping, scalp hair with roots, wearing apparels of the deceased, vaginal swab with smear which he kept in a bag, labelled, sealed and signed and handed over to the escorting police personnel for sending the same for chemical examination and microscopic examination at the Forensic Science Laboratory through the police station. He has identified those materials when shown at the trial. Such materials have been marked as Material Exhibit II. He has stated that, the injuries suffered by the victim were ante mortem in nature and that, he found injuries of different sizes on the vital organs. He has identified injury no. 25, 26, 27 and 28 noted in the post mortem report

as defence wounds arising out of the resistance of the victim. He has identified injury no. 41 and 42 to be injuries which may be sustained if the victim falls on the ground.

15. PW1 has been cross-examined at length on behalf of the appellant. Nothing fruitful to the defence has been extracted by such lengthy cross-examination.

16. A working journalist with a Bengali news channel has deposed as PW 2. He has stated that, his office is situated just beside the place of occurrence. He has stated that, the time of the incident, he was at his office. He has described that at about 6:30 PM on May 2, 2022, he heard a sound and came out of his office. After coming out of his office, he had noticed that in front of the southern side gate of the house of Ashim Dutta, one boy wearing a red coloured T-shirt was standing on the road and was having a gun in one of his hands and a knife in the other. He has also noticed that the boy was stabbing a girl with the knife indiscriminately. He has stated that apart from him about 4/5 persons were present there at the relevant time of the incident. They had tried to rescue the girl taking help of a bamboo stick but could not do so as the assailant was having a gun in his hand. Immediately, he had

taken out his mobile phone and captured the entire incident and made video recording in his phone.

17. PW 2 has stated that, after stabbing the girl the assailant fled away. He has stated that he received a notice from the police station for handing over the video footage of the incident. He has identified his signature on the summons. He has stated that, he had copied the video footage of the incident from his mobile without editing the same on to a flash drive which he made over to the Sub-Inspector of Police. He has also handed over a Certificate under Section 65B of the Indian Evidence Act to such Sub-Inspector of Police. He has tendered the certificate under Section 65B of the Evidence Act which was marked as Exhibit 7. The flash drive has been marked as material Exhibit 3. He has identified the appellant as the person who assaulted the victim on that date. He has also identified the material Exhibit no. I as the knife which the appellant used to assault the victim. He has identified the wearing apparels of the victim at the material point of time. He has identified the pistol carried out by the appellant at the point of time of the incident which was marked as Exhibit V.

18. PW2 has been cross-examined at length on behalf of the appellant without any fruitful material being extracted from him.

19. A businessman of the locality has deposed as PW 3. He has stated that, on the date of the incident at about 6:30 PM, he was taking steps for closing his shop when he heard a hue and cry from a girl. On hearing the same, he along with three of his employees rushed out of the shop and proceeded towards the place from where the sound of cry of the girl was coming. He has identified the employees. He has stated that, on reaching the spot, he noticed that one boy was repeatedly stabbing a girl with knife and that the girl was lying on the road. He has stated that the place was illuminated with street light and that due to such light, he could see the incident very clearly. On noticing the incident, he immediately called the police through his mobile phone. One of his employees on noticing the incident had taken one bamboo stick which was lying on the road and rushed towards the girl to save her. He along with such employee had proceeded towards the assailant who pointed his gun towards them and shouted that since he was killing one, he will be able to kill 10 more. He

has stated that on hearing such statement, they immediately retreated from the place of occurrence to save themselves.

20. PW 3 has stated that he noticed one photographer from a Bengali news channel, was present at the spot of the incident and was doing video photography of the entire incident through his mobile phone. By the time police arrived, the appellant had fled the spot. He has identified the appellant in Court. He has tendered various documents in evidence which was marked as Exhibits.

21. PW 3 has been cross-examined at length on behalf of the defence without any material favourable to the defence being extracted.

22. The person who lodged the police complaint which was treated as the First Information Report has deposed as PW 4. He has stated that, the victim used to live in the mess at his house at that material point of time. He was in his house engaged in Kirtan. At around 6:35 to 6:40 PM, he had heard the calling bell and on answering thereto he was informed of the incident. Thereafter, he had lodged the police complaint which was tendered in evidence and marked as evidence. He has also tendered the photographs of the victim.

23. The photographer who took the photographs of the place of occurrence has deposed as PW 5. He has tendered the photographs and the video recording he made at the place of occurrence, at the trial.

24. The then Officer-in-Charge, Englishbazar Women Police Station, Malda has deposed as PW 6. She has stated about the General Diary recorded by the police on the complaint of the victim.

25. The Sub Inspector of Police who had conducted the inquest report on the body of the victim has deposed as PW 7. He has stated about the conduct of the inquest and tendered the relevant document in evidence, with regard thereto.

26. A police constable of the Samserganj police station has deposed as PW 8. He has stated that, one officer from the Behrampore Police Station arrived at the Samserganj Police Station along with the appellant. Appellant had a big bag with him which was opened in presence of PW 8 and another constable at the Samserganj Police Station. A red shirt had been found inside the bag carried by the appellant. There was another side bag inside the big school bag where there was a knife and a plastic toy gun. Appellant was wearing a jeans

pant and shoes. There were blood stains on the side and the shoes, jeans pant was smeared with blood. Appellant was given a pant after he had removed the jeans pant which he was wearing. Appellant had a mobile phone containing two SIMs. A seizure list was prepared with regard to such Articles which was signed by PW 8, Niranjan Hembram another constable and the appellant. He has identified the seizure list as well as the seized Articles in Court.

27. PW 9 is the younger sister of the victim. She has stated that, the victim used to live in the mess of PW 4 and that, victim was a student of Behrampore Girls College studying Zoology Honours. PW 9 has stated that, at a given point of time, the victim used to have a good relation with the appellant. Appellant had started taking intoxicating articles for which the victim started avoiding the appellant. Appellant had become furious and started disturbing the victim in different ways. Father of the PW 9 and the victim had lodged a General diary at the Malda Womens Police Station when the victim told her father that the accused was disturbing her in different ways. The victim had passed HS examination from Malda and came to Behrampore for her graduation. Even

thereafter, the appellant had tried to disturb the victim in order to have a relationship.

28. PW 9 has stated that, the victim developed a good relation with another person. Appellant had come to know about such relationship and thereafter started calling the victim in different ways. The victim was not able to block all the numbers from which the appellant used to call her since the appellant had many numbers. The appellant used to pass threats to the victim that he would murder her. In order to save herself from the appellant, the victim had purchased a sim without any name. The victim had told PW 9 about the events of her life before her death. Family members of the victim had lastly called the victim in the afternoon on May 2, 2022. The victim had asked her father to send the monthly rent to her. Her father was trying to transfer the money to the victim but the transfer was not getting successful so father had called the victim in the evening but could not contact her on phone. PW 9 came to know at around 6:45 PM on May 2, 2022 that the victim had been brutally murdered by the appellant near the mess where she was living. PW 9 had

identified the appellant in Court as also the mobile phone of the victim which was marked as Material Exhibit XXIII.

29. An employee of Bharti Airtel Limited, has deposed as PW 10. He has stated that, pursuant to a requisition in connection with the present case, he had forwarded Section 65B of the Evidence Act Digital Certificate, customer application form and call details record of a mobile phone for the period from April 10, 2022 to May 3, 2022 along with the decoded tower location of such mobile number for the period of May 2, 2022 only. He has identified his signature on those documents which were tendered in evidence and marked as Exhibit.

30. A police constable who had visited the place of occurrence on May 2, 2022 at around 9 PM along with another constable has deposed as PW 11. He has stated that, he searched to the place of occurrence and seized the blood soil, soil without blood, one mobile phone, one mobile black cover with blood stains on it and prepared a seizure list with regard thereto. He has tendered the seizure list in evidence which was marked as Exhibit. The Material Exhibits that were

tendered by him have been also been marked as Material Exhibits.

31. A police constable has deposed as PW 12. He has stated that on May 4, 2022 another constable brought wearing dress of the victim with several holes therein, a pair of female shoes with soil, a red coloured bra, panty with blood stains in plastic container and post mortem blood sample and handed over the same to the investigating officer. He has stated that the investigating officer prepared a seizure list which he signed. He has identified his signature and the signature of another person. Documents tendered in evidence have been marked as Exhibits while the material exhibits tendered in evidence were also marked as material exhibits.

32. A lady sub-inspector with the Cyber Crime Police Station has deposed as PW 13. She has stated that, on May 8, 2022, the investigating officer came to the Cyber Crime Police Station with the 24 Pally Durga Puja Samiti Secretary along with a Digital Video Recorder (DVR) of 16 channel. The Secretary had handed over the DVR to the investigating officer who seized the same and prepared a seizure list which she signed. She has identified her signature along with the

signature of a civic volunteer which were marked as Exhibits. She has stated that, the investigating officer came to the Cyber Crime Police Station at around 8/8.30 p.m on the same day with other requisition. She has stated that the forensic expert came after the investigating officer at the police station, when the seized DVR was given to the forensic expert. CCTV footage from the DVR was imaged into one flash drive and from that flash drive the footage was taken into another flash drive. Investigating officer had also handed over two seized mobile phones to the forensic expert. One mobile could not be opened due to unknown odd pattern lock but the other mobile phone was opened and the data from the second mobile phone was taken into two empty flash drives by way of mobile aided forensic software. Forensic expert had handed over the two back covers of the mobile with blood stains to the investigating officer of the case. The Articles had thereafter been handed over to the investigating officer by the forensic expert and a seizure list prepared.

33. PW 13 has tendered the seizure list in evidence as also the flash drives which were marked as Material Exhibit 21 series and Material Exhibit 22 series. The back covers of the

mobile marked as C1 and I3 at the time of seizure have been marked as material XXIII collectively, at the trial.

34. Land lord of the appellant has deposed as PW 14. He has stated that, the distance between his house and the road on which the place of occurrence was located was approximately 250 meters. He has identified the appellant in Court after stating that he knew the appellant and that the appellant was on rent from April 18, 2022 to May 22, 2022. PW 14 has stated that, appellant visited his home in the intervening period. On May 1, 2022 appellant had returned to his house. On the next day that is on May 2, 2022, appellant had left his house in the evening at around 6 p.m and returned at around 7.10 p.m. Appellant had left the house in haste just thereafter with his bags and baggage handing over the key of the house to the wife of PW 14. Thereafter police had come to PW 14 when they narrated everything to the police. PW 14 has stated that he handed over the copy of the Aadhar card with the signature of the appellant to the police. He has identified his signature with regard to the seizure list which were tendered in evidence and marked as Exhibits.

35. The officer-in-charge of Samserganj Police Station at the material point of time has deposed as PW 15. He has stated that, he came to know at around 7 p.m that one lady was brutally murdered by her lover at Behrampore. Then, Superintendent of Police had asked him to set up a Naka check so that the appellant could not flee away to Malda. At Darbanga More at NH 34 a Naka check was set up. One sub-inspector of the Samserganj police station along with other force had detained the appellant there. Police had taken the appellant along with a black bag to the Samserganj police station. Behrampore police station had been informed along with the Superintendent of Police of Murshidabad and Jangipur by him. Investigating officer of the case had come to the Samserganj Police Station where, the appellant was arrested and his bag seized. On searching the bag of the appellant, investigating officer had found that there was another bag inside which contained one blood stained knife and a toy pistol. A red coloured round neck T-shirt smeared with blood had been also found in the bag seized and the wearing apparels of the appellant were also seized by the investigating officer. The jeans and the pants were smeared

with blood. A seizure list was prepared by the investigating officer in presence of two constables of the Samserganj police station, before him. He has identified the seized materials in Court. He has identified the signature of one of the seizure list witnesses who was the Assistant Sub-inspector of police. These documents were tendered in evidence and have been marked as exhibits.

36. The father of the victim has deposed as PW 16. He has identified the appellant in Court. He has stated that, when the victim was studying in Class IX, he had appointed a private tutor where, the appellant also used to come to his house taking tuition from the same teacher. In this way, appellant had got acquainted with the victim. After 2/3 months, such tuition was closed as the tutor had stopped coming.

37. PW 16 has stated that he came to know from the victim that a love relationship developed between the victim and the appellant. On being informed by the victim, he had narrated the incident to the local people and to the aunty of the appellant that the appellant used to disturb the victim off and on. He has stated that, it was decided in the meeting in the presence of the appellant and his aunty along with local

people that the appellant would not disturb the victim any further. But even thereafter, the appellant did not stop disturbing the victim whenever the appellant had found her in the market or outside the house. He had lodged a complaint with the Malda Women Police Station against the appellant. After passing Higher Secondary Examination, the victim had got admission in Behrampore Girls College where she started to live in mess. When the Covid-19 broke out the victim had returned home at Malda. During the Covid period, the victim again developed relationship with the appellant. After the Covid period was over, the victim had come to know that the appellant was given to intoxication. Thereafter, the victim had stopped talking to the appellant. The victim had passed threats to kill the victim throwing acid upon her or to kill her.

38. PW 16 has stated that, he informed the local Councillor about the incident when a meeting was held in presence of the appellant and other relatives and local persons where it was decided that the appellant would not disturb the victim. Appellant was also asked to delete the pictures which he had taken in his laptop. Appellant used to blackmail the victim by showing photos in his laptop threatening to upload

such photos on the social media platform. PW 16 has stated that, on May 2, 2022 when he talked to the victim between 11am and 12 noon lastly, she asked for the mess rent. At about 6 PM, he had tried to transfer the rent through UPI but failed. Thereafter, PW 16 had tried to contact the victim but could not. At about 7:30 pm, the Officer-in-Charge of the Behrampore Police Station had called him to the hospital, when he went and found the victim to be murdered.

39. PW 16 has tendered the written complaint addressed to the Officer-in-Charge, Behrampore Police Station which was tendered in evidence as Exhibit 15. He has also identified his signature on the Inquest Report.

40. The Doctor who was posted as General Duty Medical Officer at Anup Nagar Block Primary Health Centre has deposed as PW 17. He has stated that on May 3, 2022 he was posted at that place and in such capacity. During his duty, he had examined the appellant who was brought to him by the police. He had taken the left thumb impression of the appellant on the emergency treatment sheet. He has tendered such document which was marked as an exhibit. He has stated that, he examined the appellant and found a small

sharp cut injury on his right hand. He has stated that, the appellant may sustain such injury on his hand if his hand is oily or slippery and he attacks someone with a sharp cutting weapon. He has however failed to identify the appellant in Court.

41. The Doctor who had examined the appellant on May 4, 2022 has deposed as PW 18. He has tendered medical documents in evidence which were marked as exhibits. He has stated that, he found a small cut injury on the right hand of the appellant. He has opined that the injury sustained by the appellant may be due to a sharp cutting weapon and that accidental injury may take place on the palm of a person holding a sharp cutting weapon and attacking someone again and again with his hand being oily or slippery. He was also unable to identify the appellant in Court as the person who he had treated.

42. The Assistant Director of the State Forensic Science Laboratory which examined the seized electronic material as well as the other seized materials, has deposed as PW 19. He has tendered the reports and other documents in evidence which were marked as exhibits.

43. A friend of the victim has deposed as PW 20. He has stated that, he was studying Zoology Honours in 2022. He has stated that, the victim was his friend and that she was murdered. He has stated that, he and the victim used to go to a place for taking tuition where, friendship between them developed from 2021. He has stated that the victim confided in him that, the appellant used to harass her by calling on her mobile phone number several times. Victim had to change the mobile phone number several times. He has stated the last mobile phone number of the victim. She had also confided in him that, a meeting was held in Malda where, the appellant was asked not to harass her.

44. PW 20 has stated that, on May 2, 2022 victim and he went to a Mall for watching a movie. Such movie had ended at around 6:15 PM. He had left the victim near the Mall and went home. He has stated that the distance between the Mall and the mess where the victim used to stay was around 4 to 5 minutes. When he had boarded the bus and travelled for about 10 to 15 minutes then, one call came from the mother of the victim. Mother of the victim had told him that she was not getting the victim on phone. Thereafter, he had called the

victim 10 to 12 times. One police had received the last call and told him that the victim met with an accident and asked him to come at the earliest. Firstly he had gone to the police station where he was asked to go to the hospital. There he was told by the police that the victim had been murdered. Police had enquired of him as to his relation with the victim. Police had showed him a video. Victim had shown the photo of the appellant to him earlier. In the video of the police, he had identified the appellant as the assailant. He had told the police that he wanted to depose before the Magistrate. He had tendered his statement recorded before the Magistrate which was marked as an exhibit. PW 20 had identified the appellant in Court. He had also identified Exhibit 55 as that of the appellant. He has stated that, victim told him that the appellant was given to intoxication and that he used to doubt her so she had ended her relation with the appellant.

45. The officer in charge of the police station has deposed as PW 21. He has stated that he received a requisition for the purpose of getting Call Details Recording and Tower Location of 3 mobile phone numbers which he identified. He had collected the soft copies of the CDR and CAF in connection

with the 3 mobile numbers from the service provider. He has tendered his report with regard thereto which was marked as an exhibit at the trial.

46. An employee of the West Bengal State Electricity Development Corporation Ltd has deposed as PW 22. He has stated that, he received a requisition from the investigating officer of the case regarding the location of 2 electric poles. He had gone with the investigating officer to the area where the poles were located, the location of the poles physically on the spot with the help of Google Maps and prepared a report at his office. He has tendered his report at the trial which was marked as an exhibit.

47. The scribe of the written complaint has deposed as PW 23. He has stated that, he is the younger brother of the complainant. He has identified his signature on the written complaint and stated that, the written complaint was written as per the instruction of his elder brother.

48. A photographer who was asked to take photographs by the investigating officer has deposed as PW 24. He has stated that, he was asked by the investigating officer to record the gait pattern of the appellant. He has stated that, he took his

camera, went to the correctional home and video graphed the gait pattern of the appellant. At that time, the jailer of the correctional home, the forensic expert, and the Magistrate were present. He has tendered his report at the trial which was marked as an exhibit. He has also identified the appellant in Court.

49. The secretary of the 24ser Pally Durga Puja Committee has deposed as a PW 25. She has stated that, she received a notice from the investigating officer for the purpose of seizing the DVR and the CCTV installed at the road. She has stated that, she went to the Cybercrime Police Station and handed over the DVR of the requisitioned CCTV footage to the police whereupon, a seizure list was prepared. She has identified her signature on such seizure list. She has tendered the certificate under section 65B of the Indian Evidence Act which was marked as an exhibit. She was shown the Material Exhibit 20 series which she has identified as the ones which she produced to the police as per the requisition. She has explained that, the difference in time in the footage of CCTV with the actual time was due to the problem of the battery which she stated to the police also.

50. The driver of the pickup van on which, the appellant had taken the ride has deposed as PW 26. He has stated that, on May 2, 2022 he was coming from Nadia and going towards Farraka when he stopped his vehicle at Urampur to have tea. There many persons had boarded his van. At the Dakbunglow More under the Samserganj Police Station, police had stopped his vehicle and took away the appellant. He has identified the appellant in Court as the person who was taken away by the police from the van on May 2, 2022. He has stated that, the appellant had a school bag on his back when he was taken by the police from the vehicle.

51. A senior scientific officer posted at the State Forensic Science Laboratory, Kolkata has deposed as PW 27. On being shown Exhibit 58, he has stated that, his office received 15 exhibits along with the requisition being Exhibit 58. He has stated that, as per the requisition, he examined the exhibits on biological point of view as per query given in the forwarding memo. He has tendered the documents at the trial which were marked as exhibits.

52. The Assistant Director, Biology of the State Forensic Science Laboratory at Kolkata has deposed as PW 28. He has

stated that, he received some samples from the forensic scientist and on examination of the same, he found human blood in all the samples. He has tendered his report which was marked Exhibit 106 at the trial. He has stated that, exhibits F, G, H, J and L are all female profile as that of Q. He has tendered his report in this regard which was marked as Exhibit 108 collectively. He has stated that DNA sequence varies from man to man and that it is unique.

53. A constable of the Salar Police Station has deposed as a PW 29. He has stated that, he went with a sub- inspector in connection with the police case to the police morgue with a dead body challan and the dead body of the victim. They had deposited the dead body at the police morgue. On May 4, 2022 he had collected the alamat from the police morgue and handed over the same to the investigating officer whereupon a seizure list was prepared which he signed. He has identified his signature on the seizure list which was tendered in evidence.

54. The nodal officer of Flipkart Internet Private Limited has deposed as PW 30. He has identified the product being a SG store PUBG Mauser Pistol Gun 729 for kids Guns and

Darts Black, which was ordered by and delivered to the appellant through a registered mobile phone number. He has tendered documents with regard thereto in evidence which were marked as exhibits.

55. The Judicial Magistrate who recorded the statement of PW 3 and PW 20 has deposed as PW 31. He has tendered documents with regard thereto at the trial which were marked as exhibits. He has stated that, a Test Identification Parade was held at the correctional home on May 20, 2022 in his presence. He has stated that, PW 3 and Bapan Sharma were present and identified the appellant. The Test Identification Parade report has been tendered in evidence and marked as exhibit. He has also stated that on June 14, 2022 one gait videography of the appellant was held at the correctional home in his presence and also in the presence of the video photographer and the controller of the correctional home. He has tendered the report with regard thereto which was marked as an exhibit at the trial. He has identified the micro-SD card with regard to the gait videography. He has identified the appellant in Court.

56. The nodal officer of a mobile service provider has deposed as PW 32. He has identified the CDR of the mobile phones and the decoded tower locations which were tendered in evidence and marked as exhibits.

57. The local Councillor of the area where the residence of the victim was located at Malda deposed as PW 33. He has stated about an incident between the appellant and the family of the victim happening in 2021 when, he was asked by the father of the victim to intervene. He has stated that, on reaching the residence of the father of the victim, he found that the appellant was in a drunken state abusing the father of the victim and claiming that he was in a relationship with the victim. The appellant had claimed that, the appellant has a laptop containing semi-nude photos of the victim. Appellant had brought such laptop. Father of the appellant was called by PW 33 who requested PW 33 not to take any legal steps. He has stated that, the victim was taken on speaker mode in the mobile phone when, the victim stated that although there was a relationship, she did not want to continue with the same any further. After hearing the same from the victim, all present in the meeting had asked the appellant to delete the

pictures of the victim which was done. After few days, father of the victim had told him that the victim was complaining that the appellant was disturbing her. On May 2, 2022 he had heard from other people that the victim was murdered. He has identified the appellant in Court.

58. The then inspector in charge of the Khagra Town Post has deposed as PW 34. He has stated that, he was the investigating officer of the case. He has narrated the course of the investigation. He has tendered various documents at the trial which were marked as exhibits. Although the defence has cross-examined him at length no fruitful material was extracted out of such cross-examination.

59. The appellant has been examined under Section 313 of the Criminal Procedure Code on the conclusion of the evidence of the prosecution. As many as 555 questions have been put to the appellant during his examination under section 313 of the Criminal Procedure Code.

60. In course of his examination under Section 313 of the Criminal Procedure Code, the appellant has taken the stand that he did not know anything about the incident and that, he

was falsely implicated. He has declined to produce any evidence in his support.

61. Exhibit 1 being the post-mortem report of the victim and the deposition of the post-mortem doctor being PW 1 have established that the victim was murdered. PW 1 had found 45 injuries on the body of the victim during post-mortem. According to him, four injuries suffered by the victim were defence wounds arising out of the resistance of the victim while two other injuries suffered by the victim may have been due to the victim falling on the ground.

62. Prosecution therefore has been able to prove beyond reasonable doubt that the victim was murdered.

63. PW 2 and 3 are witnesses who have seen the incident of murder of the victim. Both of them have corroborated each other with regard to the incident. Both of them have described the incident as the appellant repeatedly stabbing the victim in front of the gate of the house belonging to PW 4 at about 6:30 PM on May 2, 2022. Both of them have stated that, their attempt to rescue the victim was thwarted by the appellant by brandishing a gun. The appellant had fled the place of occurrence. Both of them have seen each other at the place of

occurrence. Both of them had identified the appellant as the assailant in Court. Defence has not been able to point out any material discrepancy with regard to the testimonies of PW 2 and 3 implicating the appellant in the two charges against him.

64. The knife used by the appellant had been seized and marked as Exhibit 1. The gun that the appellant had brandished at the place of occurrence was also seized and was subsequently found to be a toy gun. Such gun has also been tendered in evidence and marked as an exhibit.

65. PW 2 had video graphed a portion of the incident. PW 3 has corroborated the fact that, PW 2 had video graphed the incident. The fleeing away by the appellant had been recorded by a CCTV of a Durga Puja committee which was tendered in evidence.

66. Police had seized the CCTV footage of the Durga Puja committee and showed the same to PW 20 who identified the appellant. Victim and PW 20 were in a relationship and the victim had confided in PW 20 as to her relationship with the appellant and showed the photo of the appellant to him. Sister

of the victim has acknowledged that there was a relationship between PW 20 and the victim.

67. Police had set up Naka checking at different places. In one of such places, the appellant had been found. The driver of the vehicle from which, the appellant was found has identified the appellant and stated that the police took the appellant from his vehicle at a Naka checking. He has also stated that, along with the appellant there was a bag.

68. Police had taken the appellant to a police station where, the bag with the appellant was searched. In such bag, the knife, toy gun, wearing apparel of the appellant along with other materials were found and seized. Seized Articles had been sent for forensic. Forensic evidence has implicated the appellant in the murder of the victim.

69. Appellant has relied upon ***Dharkole (supra)*** to contend that, since, all other persons present at the place of occurrence and at the time of occurrence, were not examined by the prosecution, the veracity of the case of the prosecution should be doubted.

70. We are not in a position to accept such contentions on behalf of the appellant, in the facts and circumstances of the

present case. ***Dharkole (supra)*** has held that, non-examination of any particular person as witnesses would not affect the prosecution case when the witnesses examined by the prosecution withstood the cross-examination and pointed to the guilt of the accused.

71. It is trite law that, Court is not concerned with the quantity of the evidence but the quality thereof. In the facts and circumstances of the present case, PW 2 and PW 3 narrated the incident implicating the appellant in the murder of the victim. There is no material on record which suggest that, the veracity of such testimonies has to be doubted.

72. ***Arjun Panditrao Khotkar (supra)*** has overruled a previous decision of the Supreme Court and clarified another with regard to section 65A and 65B of the Indian Evidence Act, 1872 and distinguished between the primary and secondary evidence, electronic records/documents and how the same can be produced in Court and proved. Even for the sake of argument, if we are to overlook the CCTV footage, then also, the testimonies of the 2 eyewitnesses namely PW 2 and PW 3 have implicated the appellant in the murder of the victim conclusively.

73. We clarify that, we have not held that, the CCTV footage or any other electronic material which the learned trial Court was pleased to consider were not proved in accordance with the Evidence Act, 1872 and therefore, should not be relied upon.

74. In our view, prosecution has been able to establish that the appellant murdered the victim, and that, he tried to evade arrest by brandishing a toy gun, conclusively. Both the charges as against the appellant have been conclusively established at the trial.

75. We have to consider the quantum of punishment imposed by the learned trial Court on the appellant on the basis of the decisions of Courts relating to the death penalty.

76. ***Bachan Singh (supra)*** has answered a reference with regard to the constitutional validity of death penalty for murder provided in section 302 of the Indian Penal Code and the sentencing procedure embodied in subsection (3) of section 354 of the Code of Criminal Procedure, 1973. It has held that, death penalty for its execution cannot be regarded as unreasonable, cruel or unusual punishment, nor can it be said to defy the dignity of the individual within the preamble

of the Constitution. It has also held that, on parity of reasoning, it cannot be said that death penalty violates the basic structure of the Constitution.

77. *Bachan Singh (supra)* has held that, the extreme penalty of death need not be inflicted except in grievous cases of extreme culpability. Before opting for the death penalty the circumstances of the offender is required to be taken into consideration along with the circumstances of the crime. Life imprisonment is the rule and death sentence is an exception. Death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances. A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and mitigating circumstances before the option is exercised.

78. Machhi Singh (supra) has laid down guidelines/test to determine the rarest of rare cases in which death sentence can be inflicted. It has taken note of **Bachan Singh (supra)** and the proposition laid down therein. It has held that, the guidelines indicated in **Bachan Singh (supra)** have to be applied. In order to apply such guidelines, 2 questions may be asked and answered. Firstly, is there something uncommon about the crime which renders sentence of imprisonment for life inadequate and calls for a death sentence. Secondly are the circumstances of the crime such that there is no alternative but to impose death sentence even after recording maximum weightage to the mitigating circumstances to speak in favour of the offender. If only after taking a global view of the circumstances in light of the propositions noted therein, and taking into account the answers to the questions posed, the circumstances of the case are such that that sentence is warranted, the Court may proceed to do so.

79. Santosh Kumar Satishbhushan Bariyar (supra) has held that, not only the doctrine of proportionality but also the doctrine of rehabilitation should be taken into consideration, particularly in view of section 354 (3) of the Criminal

Procedure Code, which must be read with Article 21 of the Constitution of India, in deciding whether or not to award death penalty. It has held that, where there was nothing to show that the accused could not be reformed and rehabilitated, the manner of disposal of the body of the deceased, howsoever abhorrent, by itself is not sufficient to bring the case in the rarest of rare category.

80. In ***Rameshbhai Chandubhai Rathod (supra)*** death sentence awarded to a 27 year old for rape and murder had been commuted to life imprisonment, in the facts and circumstances of that case.

81. ***Rajendra Pralhadrao Wasnik (supra)*** has upheld a death penalty for the accused in respect of rape and murder of a child aged 3 years by a married person aged 31 years. It has noted the heinous, brutal and inhuman crime committed. It has also noted that, the convict was holding the child in a relationship of trust belief and confidence. The convict had left the child in badly injured condition in open field reflecting on the unfortunate and abusive facet of human conduct. Convict has been found to give bites on the chest of the minor. Pain and agony that the convict must have caused to the deceased

minor was taken into account. No mitigating circumstances having been found in favour of the convict; penalty of death imposed was not interfered with.

82. Finding no mitigating circumstances **Sunil Baban Pingale (supra)** has also upheld the death penalty awarded.

83. In **Shankar Kisanrao Khade (supra)** death penalty for murder by strangulation after repeated rape and sodomisation of a minor girl of 11 years with intellectual disability has been commuted to life imprisonment although, the crime test, criminal test and the rarest of rare cases test being satisfied on the ground that, there was no past criminal record against the accused.

84. **Shankar Kisanna Khade (supra)** has considered **Bachan Singh (supra)**, **Machi Singh (supra)** as well as **Rajendra Pralhadrao Wasnik (supra)** amongst other authorities and observed as follows: –

“49. In *Bachan Singh* [*Bachan Singh v. State of Punjab*, (1980) 2 SCC 684 : 1980 SCC (Cri) 580] and *Machhi Singh* [*Machhi Singh v. State of Punjab*, (1983) 3 SCC 470 : 1983 SCC (Cri) 681] cases, this Court laid down various principles for awarding sentence : (*Rajendra Pralhadrao case* [*Rajendra Pralhadrao Wasnik v. State of Maharashtra*, (2012) 4 SCC 37 : (2012) 2 SCC (Cri) 30] , SCC pp. 47-48, para 33)

“Aggravating circumstances — (Crime test)

(1) The offences relating to the commission of heinous crimes like murder, rape, armed dacoity, kidnapping, etc. by the accused with a prior record of conviction for capital felony or offences committed by the person having a substantial history of serious assaults and criminal convictions.

(2) The offence was committed while the offender was engaged in the commission of another serious offence.

(3) The offence was committed with the intention to create a fear psychosis in the public at large and was committed in a public place by a weapon or device which clearly could be hazardous to the life of more than one person.

(4) The offence of murder was committed for ransom or like offences to receive money or monetary benefits.

(5) Hired killings.

(6) The offence was committed outrageously for want only while involving inhumane treatment and torture to the victim.

(7) The offence was committed by a person while in lawful custody.

(8) The murder or the offence was committed to prevent a person lawfully carrying out his duty like arrest or custody in a place of lawful confinement of himself or another. For instance, murder is of a person who had acted in lawful discharge of his duty under Section 43 of the Code of Criminal Procedure.

(9) When the crime is enormous in proportion like making an attempt of murder of the entire family or members of a particular community.

(10) When the victim is innocent, helpless or a person relies upon the trust of relationship and social norms, like a child, helpless woman, a daughter or a niece staying with a father/uncle and is inflicted with the crime by such a trusted person.

(11) When murder is committed for a motive which evidences total depravity and meanness.

(12) When there is a cold-blooded murder without provocation.

(13) The crime is committed so brutally that it pricks or shocks not only the judicial conscience but even the conscience of the society.

Mitigating circumstances — (Criminal test)

(1) The manner and circumstances in and under which the offence was committed, for example, extreme mental or emotional disturbance or extreme provocation in contradistinction to all these situations in normal course.

(2) The age of the accused is a relevant consideration but not a determinative factor by itself.

(3) The chances of the accused of not indulging in commission of the crime again and the probability of the accused being reformed and rehabilitated.

(4) The condition of the accused shows that he was mentally defective and the defect impaired his capacity to appreciate the circumstances of his criminal conduct.

(5) The circumstances which, in normal course of life, would render such a behaviour possible and could have the effect of giving rise to mental imbalance in that given situation like persistent harassment or, in fact, leading to such a peak of human behaviour that, in the facts and circumstances of the case, the accused believed that he was morally justified in committing the offence.

(6) Where the court upon proper appreciation of evidence is of the view that the crime was not committed in a preordained manner and that the death resulted in the course of commission of another crime and that there was a possibility of it being

construed as consequences to the commission of the primary crime.

(7) Where it is absolutely unsafe to rely upon the testimony of a sole eyewitness though the prosecution has brought home the guilt of the accused.’ [Ed. : As observed in Ramnaresh v. State of Chhattisgarh, (2012) 4 SCC 257, pp. 285-86, para 76.] ”

“52. Aggravating circumstances as pointed out above, of course, are not exhaustive so also the mitigating circumstances. In my considered view, the tests that we have to apply, while awarding death sentence are “crime test”, “criminal test” and the “R-R test” and not the “balancing test”. To award death sentence, the “crime test” has to be fully satisfied, that is, 100% and “criminal test” 0%, that is, no mitigating circumstance favouring the accused. If there is any circumstance favouring the accused, like lack of intention to commit the crime, possibility of reformation, young age of the accused, not a menace to the society, no previous track record, etc. the “criminal test” may favour the accused to avoid the capital punishment. Even if both the tests are satisfied, that is, the aggravating circumstances to the fullest extent and no mitigating circumstances favouring the accused, still we have to apply finally the rarest of the rare case test (R-R test). R-R test depends upon the perception of the society that is “society-centric” and not “Judge-centric”, that is, whether the society will approve the awarding of death sentence to certain types of crimes or not. While applying that test, the court has to look into variety of factors like society's abhorrence, extreme indignation and antipathy to certain types of crimes like sexual assault and murder of intellectually challenged minor girls, suffering from physical disability, old and infirm women with those disabilities, etc. Examples are only illustrative and not exhaustive. The courts award death sentence since situation demands so, due to constitutional

compulsion, reflected by the will of the people and not the will of the Judges.”

85. The Calcutta authorities have commuted death penalty to one of life imprisonment, in the facts and circumstances of those cases.

86. In the facts and circumstances of the present case, the appellant has assaulted the victim repeatedly with a knife causing her death. Apparently, there was a relationship between the appellant and the victim at a given point of time and that, the victim had come out of such relationship. The victim had also entered into a relationship with another person to the knowledge of the appellant.

87. It has come out from the testimonies of the father of the victim, her sister and the new person with whom, the victim developed a relationship that, the appellant was threatening the victim with regard to the new relationship.

88. It has been contended on behalf of the appellant that, the act of murder was an act of passion done on the spur of the moment and that, a lenient view should be taken.

89. In the facts and circumstances of the present case, we are not in a position to subscribe to the view that, the assault on the victim was on the spur of the moment. Appellant had

purchased a toy gun to stave off any intervenors when he would be murdering the victim. Appellant had also got himself the knife. Materials on record established that, appellant had planned the murder. The victim had suffered 45 stab injuries. The appellant did not let go of the victim despite the victim trying to defend herself and suffering defence wounds, falling to the ground and suffering further wounds and, persons present at the place of occurrence trying to intervene to save the victim from the appellant. The appellant had prevented PW 2 and PW 3 amongst others to save the victim from the assault. Manner of murder is gruesome.

90. We have to decide on the quantum of punishment for the murder committed by the appellant on the parameters of the crime test, criminal test and the rarest of rare cases test. On the aspect of the crime test or aggravating circumstances, materials on record have not established that, there was any previous criminal record of the appellant. There however was a complaint to the police lodged at the behest of the victim as against the appellant which has not reached any logical conclusion till date. At least nothing has been placed on record to establish that the earlier complaint as against the

appellant, reached any conclusion in Court. Prosecution has not established that, the appellant committed the offence of murder while engaged in the commission of another serious offence or that the offence has been committed with the intention to create a fear psychosis in the public at large or committed for money or to receive money or monetary benefits. Briefly stated, the aggravating circumstances as against the appellant cannot be classified as 100%.

91. Similarly, so far as the criminal test or the mitigating circumstances are concerned, we are not in a position to arrive at a finding that it is 0% as against the appellant. Age of the appellant is in favour of the appellant. The nature of crime cannot be classified as rarest of rare cases.

92. By an order dated May 1, 2025 we had called upon the State to report on the condition of the appellant in terms of the guidelines laid down in **2023 Volume 2 Supreme Court Cases 353 (Manoj and others versus State of M.P.)**. State has done so. State has not been able to place any material before us to suggest that, the appellant is beyond reformation.

93. *Manoj and others (supra)* has noticed various authorities on the issue of imposition of death penalty. Amongst others, it has noticed **2008 Volume 13 Supreme Court Cases 767 (*Swamy Shraddananda (2) versus State of Karnataka*)** and **2016 Volume 7 Supreme Court Cases 1 (*Union of India versus V. Sriharan*)**. It has observed that Court must arrive at a finding that the option of life imprisonment is unquestionably foreclosed owing to an impossibility of reformation to award death penalty.

94. *Swamy Shraddananda (2) (supra)* has held that, Supreme Court can commute a death sentence to one of life imprisonment and prescribe the actual term of imprisonment to be undergone by the convict without the same being subject to remission/commutation by the executive under the provisions of the Criminal Procedure Code, Prisons Acts and rules framed by different States.

95. With regard to the issue of sentencing is concerned, ***Swamy Shraddananda (2) (supra)*** has observed as follows: –

“92. The matter may be looked at from a slightly different angle. The issue of sentencing has two aspects. A sentence may be excessive and unduly harsh or it may be highly disproportionately inadequate. When an appellant comes to this

Court carrying a death sentence awarded by the trial court and confirmed by the High Court, this Court may find, as in the present appeal, that the case just falls short of the rarest of the rare category and may feel somewhat reluctant in endorsing the death sentence. But at the same time, having regard to the nature of the crime, the Court may strongly feel that a sentence of life imprisonment subject to remission normally works out to a term of 14 years would be grossly disproportionate and inadequate. What then should the Court do? If the Court's option is limited only to two punishments, one a sentence of imprisonment, for all intents and purposes, of not more than 14 years and the other death, the Court may feel tempted and find itself nudged into endorsing the death penalty. Such a course would indeed be disastrous. A far more just, reasonable and proper course would be to expand the options and to take over what, as a matter of fact, lawfully belongs to the Court i.e. the vast hiatus between 14 years' imprisonment and death. It needs to be emphasised that the Court would take recourse to the expanded option primarily because in the facts of the case, the sentence of 14 years' imprisonment would amount to no punishment at all."

- 96.** Constitution Bench in **V. Sriharan (supra)** has noted **Swamy Shraddhananda (2) (supra)** and held, awarding of the special category sentence, in substitution of death sentence, that is, sentence barring remission under statute such as Criminal Procedure Code for specified term beyond 14 years, or life imprisonment barring remission for rest of life, is valid. It has however clarified that, powers of remission under Article 72 and 161 of the Constitution are not affected, as they

are not studied. It has clarified that; such powers of sentencing can however be exercised by a constitutional Court.

97. Crime test and criminal test having ruled out upholding the death penalty, the quantum of sentence, in light of the ratio of **Swamy Shraddananda (2) (supra)** and **V. Sriharan (supra)** requires consideration. As has been noted above, appellant had pre planned the murder. He had prepared himself with the murder weapon as also toy gun to stave off any interference while he was out and about committing the crime. He has inflicted 45 wounds on the victim. He did not let go the victim despite the victim falling to the ground and persons trying to intervene to save the victim. He has demonstrated sufficient quantum of depravity in the commission of the crime so as to warrant invocation of the ratio of the two authorities noted in this paragraph. Report of the State raises questions as to the mental health of the appellant.

98. The date of birth of the appellant is November 2, 2001 as appearing from the report submitted in Court pursuant to the order dated May 1, 2025. As on the date of commission of

the crime, the age of the appellant was about 21 years. Today, he would be about 24 years.

99. Taking into consideration the entire facts and circumstances of the present case including the ratio of the authorities relating to death penalty as also sentence of life imprisonment without remission, in our view, interest of justice would be subserved by commuting the death penalty to one of life imprisonment without the possibility of remission for another 40 years from the date of arrest of the appellant. The appellant shall also pay a fine of Rs. 50,000/-, in default to suffer rigorous imprisonment for five years more for the offence punishable under section 302 of the Indian Penal Code.

100. So far as the sentence awarded with regard to the Arms Act is concerned, by the learned trial Court, the same is upheld.

101. The period of detention suffered by the appellant during investigation, enquiry and trial shall be set off from the substantive sentence imposed upon him in terms of Section 428 of the Criminal Procedure Code.

102. Both the sentences will run concurrently.

103. A copy of the judgement and order along with the trial court records be remitted to the jurisdictional court forthwith.

104. DR 7 of 2023 along with CRA (DB) 349 of 2023 are disposed of accordingly.

[DEBANGSU BASAK, J.]

105. I agree.

[MD. SHABBAR RASHIDI, J.]