

**(Judgement contains page no. 1 to 172)**  
**Form – A**

<p><b><u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE,</u></b> <b><u>1<sup>st</sup> COURT, SEALDAH, SOUTH 24 PARGANAS</u></b></p> <p><b>Present – Anirban Das (WB 00691)</b> <b>Additional Sessions Judge,</b> <b>1<sup>st</sup> Court, Sealdah,</b> <b>South 24 Parganas.</b></p> <p><b>Date of the Judgment: 18.01.2025</b></p> <p><b>Case No. <u>Sessions Trial No. 01(11)2024</u></b> <b><u>Sessions case No. 77 of 2024</u></b> <b><u>CNR WBSP07-003708-2024</u></b> <b>(R- 77 of 2024)</b></p> <p><b>(Details of FIR/Crime and Police Station)</b></p>	
Complainant	State of West Bengal OR Name of the Complainant: -father of the victim.
Represented By	Ld. Senior PP CBI Sri Anurag Modi and Ld. Special PP CBI Partha Sarathi Dutta
Father of the victim (complainant)	Ld. Senior Advocate Vrinda Grover, Ld. Advocate Soutik Banerjee, Ld. Advocate Arjun Gooptu and Ld. Advocate Devika Tulsiani (since retired on 11.12.2024). Ld. Advocate Rajdeep Halder, Souvik Ghosh (since 12.12.2024).
Accused	<b>A-1.</b> Sanjay Roy, son of Late Sarjit Roy of 55/B, Sambhunath Pandit Street, Kolkata-25. Present address: - 4 <sup>th</sup> Battalion, KAP Camp at Salt Lake, Kolkata. Profession:- Civic Volunteer.
Represented by	Ld. LADC Sourav Bandopadhyay, Ld. Deputy LADC Subrata Kumar Giri and Assistant LADC, Kabita Sarkar, Assistant LADC, Senjuti Chakrabarti.

**Form – B**

Date of Offence	09.08.2024,
Date of FIR	09.08.2024
Date of Charge-sheet	07.10.2024
Date of Framing of Charges	04.11.2024
Date of commencement of Evidence	11.11.2024
Date on which Judgement is reserved	N/A
Date of the Judgement	18.01.2025
Date of the Sentencing Order, if any	20.01.2025

**Accused Details:**

Rank of the Accused	Name of the Accused	Date of arrest	Date of release on Bail	Offenses charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 468 BNSS
1.	Sanjay Roy	10.08.2024	NA	U/S.64/66/103(1) BNS	Convicted	Yes	From 10.08.2024 to 20.01.2025

**Form – C**

**LIST OF PROSECUTION / DEFENCE/ COURT WITNESSES**

**A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW 1	Sanjib Mukherjee	Writer of the complaint & neighbour of the victim
PW 2	Father of the victim	Father of the victim.
PW 3	Dr. Gulam Azam	House staff of Chest Medicine Department of RG Kar Medical Collage and Hospital
PW 4	Dr. Arko Sen	First Year PGT of Chest Department of RG Kar Medical College and Hospital
PW 5	Dr. Pooja Rai	First Year PGT of Chest Department of RG Kar Medical College and Hospital
PW6	Dr. Sumit Roy Tapadar	Associate Professor of department of Respiratory Medicine, R.G.Kar medical College & Hospital
PW7	Dr. Pali Samadder	EMO, RG Kar Medical College and Hospital.
PW8	Dr. Biswanath Saren	Assistant Professor, department of FMT, SSKM Hospital.
PW9	Jayanta Rajbanshi	Constable, Detective Department, Scientific Wing, Kolkata Police.
PW10	Shibasish Dey	Judicial Magistrate, 2 <sup>nd</sup> Court, Sealdah.
PW-11	Shekhar Roy	ASI, Detective Department, Scientific Wing, Kolkata Police.
PW12	Dr. Antra Burman	PGT, 3 <sup>rd</sup> year, R.G Kar Medical College and Hospital.
PW-13	Sourodip Lahiri	Architect, CPWD
PW14	Biren Roy Chowdhury,	Constable, Scientific Wing, Detective Department, Scientific Wing, Kolkata Police.
PW15	Dr. Pauline Ara Parven	Specialist Medical Officer (Pathology), Salt Lake SD Hospital, Kolkata.
PW16	Dr. O Gambhir Singh	Professor and Head of department of FMT, AIMS, Kalyani, WB.
PW17	Dr. Soma Roy	Assistant Director and Scientist-C (Biology), CFSL, Kolkata.
PW18	Sanoj Kamti	Private Security guard at Main Gate of Chest Department of RG Kar Hospital.
PW19	Bikash Chandra Majee	SI of police, Detective Department, Scientific Wing, Kolkata Police. (Plan making section).
PW20	Chandan Bhowmik	Constable attached to 4 <sup>th</sup> Battalion, Kolkata police.
PW21	Apurba Biswas	Professor, RG Kar Medical College in the department of FMT.
PW22	Kausikbrata Majumdar	SI. of police, Detective Department, Kolkata Police. Homicide department.
PW23	Chinmoy Banerje	Inspector of police Detective Department, Kolkata Police. Homicide department..
PW24	Subrata Chatterjee	SI of police at Tala PS.

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PW25	<b>Suman Lama</b>	ASI of police at Tala PS.
PW26	<b>Sanjoy Lohar</b>	ASI of police at Detective Department, Kolkata Police, W.G Cell.
PW27	<b>Sanjoy Dutta</b>	Alternate Nodal Officer of Vodafone-Idea Ltd.
PW28	<b>Sourav Paul</b>	Sergeant, Muchipara PS.
PW29	<b>L. Nato Singh</b>	Assistant Director and Scientist-C, CFSL
PW30	<b>Anup Dutta</b>	ASI of Police & Executive Member of Kolkata Police Welfare and Development Redressal Committee.
PW31	<b>Samar Paul</b>	ASI of Police, RG Kar Police Out Post.
PW32	<b>Jagendra Shaw</b>	Security guard at RG Kar Hospital
PW33	<b>Sourav Bhattacharya</b>	Ex-Civic Volunteer.
PW34	<b>Subhendu Das</b>	Inspector, Home Guard Organization, Kolkata Police.
PW 35	<b>SI Samaresh Ghosh</b>	Malkhana-in-charge, Detective Department, Kolkata Police
PW 36	<b>SI Sourav Kumar Jha</b>	SI of Tala PS.
PW 37	<b>Dr. Adarsh Kumar</b>	Professor, FMT, AIIMS, New Delhi.
PW38	<b>Sanjoy Roy</b>	ASI of Police attached to Welfare Cell of Kolkata Police, 4 <sup>th</sup> Battalion.
PW39	<b>Sanat Kumar Saha</b>	Senior Scientific Officer, Mobile Forensic Unit, Kolkata Police.
PW40	<b>Debalina Sen Gupta</b>	Assistant Superintendent (Non-Medical), RG Kar Medical College and Hospital
PW41	<b>Gabinda Phusti</b>	Technician of annual maintenance team of the CCTVs installed at various places of RG Kar Hospital
PW42	<b>Puran Kumar</b>	Officer, SC-I, Branch, CBI, New Delhi.
PW43	<b>Suraj Bhan</b>	Officer, SC-I, Branch, CBI, New Delhi.
PW44	<b>Dr. Rina Das</b>	Associate Professor of FMT, RG Kar Medical College and Hospital.
PW45	<b>Prithwiraj Mukhopadhyay</b>	SI of police at WG Cell, Detective Department, Kolkata Police.
PW46	<b>Dr. Braja Kishore Mohapatra</b>	Deputy Director, Biology , CFSL, New Delhi.
PW47	<b>P. Paul Ramesh</b>	Deputy Director, Physics, CFSL, Kolkata.
PW48	<b>Sandip Sarkar</b>	Constable, Detective Department, Scientific Wing, Photography Section, Kolkata Police.
PW49	<b>Rupali Mukherjee</b>	First IO posted as Additional OC, Women Grievance Cell, Detective Department, Kolkata Police
PW50	<b>Seema Pahaja</b>	Second IO attached to CBI as Additional SP.

**B. Defence Witnesses, if any: No DW was adduced**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW 1	N/A	
DW 2	N/A	
DW 3	N/A	

**C. Court Witnesses, if any: N/A**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1	N/A	
CW 2	N/A	
CW 3	N/A	

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1	Exbt. P-1(1)	Written complaint (Kept in closed envelope)
2	Exbt. P-2(2)	Letter to the Principal of R.G.Kar Medical College and Hospital dated 09.08.2024 (Kept in closed envelope)
3.	Exbt.P-2/1(2)	Signature of PW2 on the Letter to the Principal of R.G.Kar Medical College and Hospital dated 09.08.2024
4.	Exbt. P-3(2) Collectively	Signatures of the Mother of the VG in the inquest report
5	Exbt.P-1/1(2)	Signatures of PW 2 on the written Complaint
6	Exbt.P-4(2)	Signatures of PW 2 on the receipt memo dated 28.08.2024 (Kept in closed envelope)
7	Exbt.P-5(2)	Signatures of PW 2 on the copy of cremation certificate dated 13.08.2024 (Kept in closed envelope)
8	Exbt.P-6(7)	Certificate of death(Kept in closed envelope)
9	Exbt.P-7(7)	Injury Certificate(Kept in closed envelope)
10	Exbt.P-8(8)	Consent of accused on the medical report
11	Exbt.P-8/1(8)	Medical report of accused dated 10.08.2024
12	Exbt.P-9(8)	One Receipt copy by WG dated 10.08.2024
13	Exbt.P-10(9)	Certificate dated 26.08.2024
14	Exbt.P-11(9)	Forensic image/hash value of the 16 GB Micro SD Card
15	Exbt.P-12(9)	Signature of PW 9 on the envelope containing micro SD card

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16	Exbt.P-13(9)	Signature of PW 9 on the seizure list dated 26.08.2024
17	Exbt.P-14(9)	Signatures of PW 9 on the memorandum dated 26.08.2024
18	Exbt.P-15(10)	Order sheet of ACJM dated 09.08.2024
19	Exbt. P-3/1(10)	Inquest report
20	Exbt. P-3/2(12)	Signatures of Antra Burman in the Inquest Report
21	Exbt. P-3/3(12)	Signatures of Diyasini Roy in the Inquest Report
22	Exbt.P-16(12) (related to Mat Exbt III)	Signature of Antra Burman in the envelope
23	Exbt.P-16/1(12) (related to Mat Exbt III)	Signature of Diyasini Roy in the envelope
24	Exbt.P-17(12)	Signature of Antra Burman in the envelope
25	Exbt.P-17/1(12)	Signature of Diyasini Roy in the envelope
26	Exbt.P-18(12)	Papers containing five pages
27	Exbt.P-19(12) (related to Mat Exbt IV)	Signature of Antra Burman in the envelope
28	Exbt.P-19/1(12) (related to Mat Exbt IV)	Signature of Diyasini Roy in the envelope
29	Exbt.P-20(12) (related to Mat Exbt V)	Signature of Antra Burman in the envelope
30	Exbt.P-20/1(12) (related to Mat Exbt V)	Signature of Diyasini Roy in the envelope
31	Exbt.P-21(12) (related to Mat Exbt VI)	Signature of Antra Burman in the envelope
32	Exbt.P-21/1(12) (related to Mat Exbt VI)	Signature of Diyasini Roy in the envelope
33	Exbt.P-22(12) (related to Mat Exbt VII)	Signature of Antra Burman in the envelope
34	Exbt.P-22/1(12) (related to Mat Exbt VII)	Signature of Diyasini Roy in the envelope
35	Exbt.P-23(12) (related to Mat Exbt VIII)	Signature of Antra Burman in the envelope
36	Exbt.P-23/1(12) (related to Mat Exbt VIII)	Signature of Diyasini Roy in the envelope
37	Exbt.P-24(12) (related to Mat Exbt IX)	Signature of Antra Burman in the envelope

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38	Exbt.P-24/1 (12) (related to Mat Exbt IX)	Signature of Diyasini Roy in the envelope
39	Exbt.P-25(12) (related to Mat Exbt X)	Signature of Antra Burman in the envelope
40	Exbt.P-25/1(12) (related to Mat Exbt X)	Signature of Diyasini Roy in the envelope
41	Exbt.P-26(12) (related to Mat Exbt XI)	Signature of Antra Burman in the envelope
42	Exbt.P-26/1(12) (related to Mat Exbt XI)	Signature of Diyasini Roy in the envelope
43	Exbt.P-27(12) (related to Mat Exbt XII)	Signature of Antra Burman in the envelope
44	Exbt.P-27/1(12) (related to Mat Exbt XII)	Signature of Diyasini Roy in the envelope
45	Exbt.P-28(12)	Signature of Antra Burman in the envelope
46	Exbt.P-28/1(12)	Signature of Diyasini Roy in the envelope
47	Exbt.P-29(12) (related to Mat Exbt XIV)	Signature of Antra Burman in the envelope
48	Exbt.P-29/1(12) (related to Mat Exbt XIV)	Signature of Diyasini Roy in the envelope
49	Exbt.P-30(12) (related to Mat Exbt XV)	Signature of Antra Burman in the envelope
50	Exbt.P-30/1(12) (related to Mat Exbt XV)	Signature of Diyasini Roy in the envelope
51	Exbt.P-31(12) (related to Mat Exbt XVI)	Signature of Antra Burman in the envelope
52	Exbt.P-31/1(12) (related to Mat Exbt XVI)	Signature of Diyasini Roy in the envelope
53	Exbt.P-32(12) (related to Mat Exbt XVII)	Signature of Antra Burman in the envelope
54	Exbt.P-32/1(12) (related to Mat Exbt XVII)	Signature of Diyasini Roy in the envelope
55	Exbt.P-33(12)	Signature of Antra Burman in the envelope
56	Exbt.P-33/1(12)	Signature of Diyasini Roy in the envelope



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57	Exbt.P-34(12)	Signature of Antra Burman in the envelope
58	Exbt.P-34/1(12)	Signature of Diyasini Roy in the envelope
59	Exbt.P-35(12)	Signature of Antra Burman in the envelope
60	Exbt.P-35/1(12)	Signature of Diyasini Roy in the envelope
61	Exbt.P-36(12)	Signature of Antra Burman in the envelope
62	Exbt.P-36/1(12)	Signature of Diyasini Roy in the envelope
63	Exbt.P-37(12)	Signature of Antra Burman in the envelope
64	Exbt.P-37/1(12)	Signature of Diyasini Roy in the envelope
65	Exbt.P-38(12) (related to Mat Exbt XVIII)	Signature of Antra Burman in the envelope
66	Exbt.P-38/1(12) (related to Mat Exbt XVIII)	Signature of Diyasini Roy in the envelope
67	Exbt.P-39(12) (related to Mat Exbt XIX)	Signature of Antra Burman in the envelope
68	Exbt.P-39/1(12) (related to Mat Exbt XIX)	Signature of Diyasini Roy in the envelope
69	Exbt.P-40(12)	Signatures of Antra Burman in the seizure list dated 09.08.2024
70	Exbt.P-40/1(12)	Signatures of Diyasini Roy in the seizure list dated 09.08.2024
71	Exbt.P-41(12) (related to Mat Exbt XX)	Signature of Antra Burman in the envelope
72	Exbt.P-41/1(12) (related to Mat Exbt XX)	Signature of Diyasini Roy in the envelope
73	Exbt.P-42(12) (related to Mat Exbt XXI)	Signature of Antra Burman in the envelope
74	Exbt.P-42/1(12) (related to Mat Exbt XXI)	Signature of Diyasini Roy in the envelope
75	Exbt.P-43(13)	Signatures of PW 13 in the Inspection Report
76	Exbt.P-43/1(13)	Signatures of Soumajyoti Das in the Inspection Report
77	Exbt.P-43/2(13)	Signatures of Umesh Kumar Paul in the Inspection Report
78	Exbt.P-44(13)	Final Sketch Map
79	Exbt.P-45(13)	Letter dated 21.08.2024
80	Exbt.P-46(14)	Signature of PW 14 in the seizure memo dated 16.08.2024
81	Exbt.P-47(14) Collectively	40 snaps
82	Exbt.P-48(14)	Signature of PW14 in the envelope of Micro SD Card



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83	Exbt.P-49(14)	Signature of PW14 in the envelope of Micro SD Card
84	Exbt.P-50(14)	135 snaps
85	Exbt.P-51(15)	Blood Sample Authentication Form
86	Exbt.P-52(15)	Signature of PW 15 in the envelope containing blood stain
87	Exbt.P-53(16)	Memo dated 19.08.2024
88	Exbt.P-54(16)	Opinion of Department of Forensic Medicine & Toxicology of All India Institute of Medical Sciences , Kalyani dated 19.08.2024
89	Exbt.P-55(17)	Covering Letter of CFSL dated 21.08.2024
90	Exbt.P-56(17)	Report of CFSL dated 21.08.2024(7 sheets)
91	Exbt.P-57(17)	Requisition of Kolkata Police dated 09.08.2024
92	Exbt.P-58(17)	Requisition of CBI dated 17.08.2024
93	Exbt.P-42/2(17)	Signature of PW 17 in the envelope containing jeans and panty of the VG
94	Exbt.P-59(17)	Signature of PW 17 in the Jeans pant of VG
95	Exbt.P-59/1(17)	Signature of PW 17 in the panty of VG
96	Exbt.P-60(17)	Signature of PW 17 in the label of jeans pant of accused
97	Exbt.P-60/1(17)	Signature of PW 17 in the label of envelope
98	Exbt.P-61(17)	Signature of PW 17 in the label of bra
99	Exbt.P-61/1(17)	Signature of PW 17 in the label of inner
100	Exbt.P-61/2(17)	Signature of PW 17 in the label of Kurti
101	Exbt.P-62(17)	Signature of PW 17 in the envelope of Mat Exbt XXII
102	Exbt.P-63(17)	Signature of PW 17 in the Label of Chappal
103	Exbt.P-64(17)	Signature of PW 17 in the Label of T Shirt
104	Exbt.P-65(17)	Signature of PW 17 in the Label of Long Hair
105	Exbt.P-65/1(17)	Signature of PW 17 in the Label of Short Hair
106	Exbt.P-66(17)	Signature of PW 17 in the Label of Blanket
107	Exbt.P-67(17)	Signature of PW 17 in the Label of Blanket
108	Exbt.P-68(17)	Signature of PW 17 in the Label of Hair on the Blanket
109	Exbt.P-69(17)	Signature of PW 17 in the Label of Hair on the Blanket
110	Exbt.P-70(17)	Signature of PW 17 in the Label of Bed Sheet
111	Exbt.P-71(17)	Signature of PW 17 in the Label of Hair Strand on Bed Sheet
112	Exbt.P-72(17)	Signature of PW 17 in the Label of Multi Colour Synthetic Cotton
113	Exbt.P-73(17)	Signature of PW 17 in the Label of Cloth piece(J)
114	Exbt.P-74(17)	Signature of PW 17 in the Label of Control of Cloth piece(K)
115	Exbt.P-75(17)	Signature of PW 17 in the Label of Scalp hair during PM(M)
116	Exbt.P-76(17)	Signature of PW 17 in the Label of Nail cutting(N)
117	Exbt.P-77(17)	Signature of PW 17 in the Label of Pubic Hair(O)

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118	Exbt.P-78(17)	Signature of PW 17 in the Label of Blood Samples(P)
119	Exbt.P-79(17)	Signature of PW 17 in the Label of Anal Swab(Q1)
120	Exbt.P-79/1(17)	Signature of PW 17 in the Label of Smear (Q2)
121	Exbt.P-80(17)	Signature of PW 17 in the Label of Nipple Swab(R)
122	Exbt.P-81(17)	Signature of PW 17 in the Label of Lip Swab(S)
123	Exbt.P-82(17)	Signature of PW 17 in the Label of endocervical Swab(T)
124	Exbt.P-83(17)	Signature of PW 17 in the Label of Vaginal Swab(U-1)
125	Exbt.P-84(17)	Signature of PW 17 in the Label of Vaginal smear(U-2)
126	Exbt.P-85(17)	Signature of PW 17 in the Label of Vulvar Mop(V)
127	Exbt.P-86(17)	Signature of PW 17 in the Label of Two Packets containing Hair samples
128	Exbt.P-87(17)	Signature of PW 17 in the Label of Packet containing mobile Cover
129	Exbt.P-88(17)	Signature of PW 17 in the Label of Packet containing Cloth Pieces
130	Exbt.P-88/1(17)	Signature of PW 17 in the Label of Packet containing Cloth Pieces
131	Exbt.P-89(17)	Signature of PW 17 in the Label of CFSL
132	Exbt.P-90(17)	Signature of PW 17 in the Label of Urethral Swabs
133	Exbt.P-90/1(17)	Signature of PW 17 in the Label of Urethral Smear
134	Exbt.P-91(17)	Signature of PW 17 in the Label of nail clippings
135	Exbt.P-92(17)	Memo of return from CFSL dated 13.08.2024
136	Exbt.P-52/1(17)	Signature of PW 17 in the Label of packet of blood Stains (B7)
137	Exbt.P-93(17)	Signature of PW 17 in the Label of packet of EDTA Vial(B-8)
138	Exbt.P-94(17)	Signature of PW 17 in the Label of CFSL of Earphone
139	Exbt.P-95(17)	Signature of PW 17 in the Label of Card Board Box
140	Exbt.P-96(19)	Rough Sketch Map
141	Exbt.P-97(19)	Final Sketch Map
142	Exbt.P-98(19)	Signature of PW 19 in the seizure memo dated 22.11.2024
143	Exbt.P-99(21)	Attested copy of the notice dated 09.08.2024
144	Exbt.P-100(21)	Order dated 09.08.2024
145	Exbt.P-101(21)	Carbon Copy of Police order dated 09.08.2024
146	Exbt.P-102(21)	Memorandum of Government of West Bengal dated 03.01.2020
147	Exbt.P-103(21)	Office Memorandum over the issue of conducting of post mortem vide no. H/110121/07/2021-H-1 dated 15.11.2021 and M /2485 (4) dated 23.12.2021
148	Exbt.P-104(21)	Carbon Copy of requisition dated 09.08.2024
149	Exbt.P-2/2(21)	Two Signatures of PW 21 in the Letter to the Principal of R.G.Kar Medical College and Hospital dated 09.08.2024
150	Exbt.P-105(21)	PM Report

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151	Exbt.P-106(21)	Form of Report on medicolegal cases forwarded to the Chemical Examiner to Government of West Bengal
152	Exbt.P-107(21)	Signature of PW 21 on the label of Mat Exbt LIV
153	Exbt.P-75/1(21)	Signature of PW 21 on the label of Mat Exbt XXXVI
154	Exbt.P-76/1(21)	Signature of PW 21 on the label of Mat Exbt XXXVII
155	Exbt.P-77/1(21)	Signature of PW 21 on the label of Mat Exbt XXXVIII
156	Exbt.P-78/1(21)	Signature of PW 21 on the label of Mat Exbt XXXIX
157	Exbt.P-79/2(21)	Signature of PW 21 on the label of Mat Exbt XL
158	Exbt.P-80/1(21)	Signature of PW 21 on the label of Mat Exbt XLI
159	Exbt.P-81/1(21)	Signature of PW 21 on the label of Mat Exbt XLII
160	Exbt.P-82/1(21)	Signature of PW 21 on the label of Mat Exbt XLIII
161	Exbt.P-83/1(21)	Signature of PW 21 on the label of Mat Exbt XLIV
162	Exbt.P-85/1(21)	Signature of PW 21 on the label of Mat Exbt XLVI
163	Exbt.P-61/3(21)	Signature of PW 21 on the label of Mat Exbt XXII
164	Exbt.P-89/1(21)	Signature of PW 21 on the label of Mat Exbt L( <b>lying with mat exbt L</b> )
165	Exbt.P-108(21)	Reply of chairman of medical board dated 09.09.2024
166	Exbt.P-109(21)	Copy of relevant receipt by the Police Authority
167	Exbt.P-110(21)	Reply to CBI Authority dated 11.09.2024
168	Exbt.P-111(21)	Opinion of Dr. Apurba Biswas dated 20.08.2024
169	Exbt.P-112(21)	Certified Copy of Relevant entry bearing SL no. 1628
170	Exbt.P-113(21)	Official Memo dated 20.08.2024
171	Exbt.P-114(21)	Certified Copy of Relevant entry bearing SL no. 1584
172	Exbt.P-115(21)	Reply dated 12.09.2024
173	Exbt.P-116(21)	Intimation Letter dated 14.09.2024
174	Exbt.P-117(21)	Signature of PW 21 on seizure memo dated 24.09.2024
175	Exbt.P-118(21) (Objected to)	Snaps regarding Injury no. 1 to 6
176	Exbt.P-119(21) (Objected to)	Snaps regarding Specifically Injury no. 3
177	Exbt.P-120(21) (Objected to)	Snaps regarding Injury no. 3
178	Exbt.P-121(21) (Objected to)	Snaps regarding Injury no. 1, portion of 2 & specifically 7
179	Exbt.P-122(21) (Objected to)	Snaps regarding Injury no. 1
180	Exbt.P-123(21) (Objected to)	Snaps regarding Injury no. 7 & 9
181	Exbt.P-124(21) (Objected to)	Snaps regarding Injury no. 4 ,5 & 6 and showing the conjunctival haemorrhage
182	Exbt.P-125(21) (Objected to)	Snaps regarding Injury no. 5 (on dissection)
183	Exbt.P-126(21) (Objected to)	Snaps regarding Injury no. 2 & 3(on dissection)
184	Exbt.P-127(21) (Objected to)	Snaps regarding Injury no. 2 (on dissection)

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185	Exbt.P-128(21) (Objected to)	2 Snaps regarding Injury no. 15 & 16
186	Exbt.P-129(21) (Objected to)	Snaps regarding Injury no. 15 (external Injury)
187	Exbt.P-130(21) (Objected to)	Snaps regarding Injury no. 8 (external Injury) (taken from PM Video)
188	Exbt.P-131(21) (Objected to)	Snaps regarding taking out of the endocervical Swab and Uterus during PM (external Injury) (taken from PM Video)
189	Exbt.P-109/1(22)	Signature of PW 22 in the Copy of relevant receipt by the Police Authority
190	Exbt.P-95/1(23)	Signature of DC(DD), Special with his lac-seal and official rubber stamp
191	Exbt.P-132(24)	UD case No. 861 dated 09.08.2024
192	Exbt.P-133(24)	Certified copy of 6 pages of Malkhana Register
193	Exbt.P-134(24)	Specimen Seal impression sheet
194	Exbt.P-40/2(24)	Seizure list dated 09.08.2024
195	Exbt.P-135(24)	Formal FIR (Kept in closed envelope and can not be opened without permission of this Court)
196	Exbt.P-136(24)	Signature of PW 24 in the Memorandum of De-Sealing and Re-Sealing of Exhibits in case RC . 10(S)/2024-CBI/SC.I/New Delhi Camp at-Kolkata dated 02.09.2024
197	Exbt.P-137(24)	Signature of PW 24 in the envelope of videography of Seizure Procedure dated 09.08.2024
198	Exbt.P-138(24)	Synopsis along with noting of Addl. OC, Tala P.S. and SEP (ND)
199	Exbt.P-139(25)	Signature of PW 25 in the receipt memo dated 03.09.2024
200	Exbt.P-140(26)	Signature of PW 25 in the seizure list dated 10.08.2024
201	Exbt.P-141(26)	Signature of PW 25 in the seizure list dated 10.08.2024
202	Exbt.P-133/1(26)	Signature of PW 26 in the 6 pages of Malkhana Register
203	Exbt.P-142(27)	CDR(12 pages)
204	Exbt.P-142/1 (27)	Particular entry in CDR
205	Exbt.P-142/2 (27)	Particular entry in CDR
206	Exbt.P-143(28)	Requisition dated 20.08.2024
207	Exbt.P-144(28)	Certificate u/s 63 (4) (c) of BSA along with system generated hash value of the Pen Drive
208	Exbt.P-145(28)	Production cum seizure memo dated 20.08.2024



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209	Exbt.P-146(28)	Specimen Seal Impression sheet
210	Exbt.P-147(28)	Signature of PW 28 on the envelope
211	Exbt.P-148(29)	Signature of PW 29 on the envelope
212	Exbt.P-149(29)	Signature of PW 29 on the envelope
213	Exbt.P-150(29)	CFSL report dated 21.08.2024 (3 Sheets)
214	Exbt.P-94/1(29)	Signature of PW 29 in the label of Mat Exbt XVII <b>(Earphone)</b>
215	Exbt.P-151(29)	Signature of PW 29 on the envelope
216	Exbt.P-152(29)	CFSL Report dated 25.08.2024 (4 sheets)
217	Exbt.P-153(29)	Signature of PW 29 on the Hard Disk
218	Exbt.P-152/1(29)	Common Certificate under section 63 BSA in respect of Mat Exbt LVI and LVII dated 25.08.2024
219	Exbt.P-154(29)	Signature of PW 29 on the Cloth Cover
220	Exbt.P-155(29)	Signature of PW 29 in the Cloth Cover
221	Exbt.P-156(29)	CFSL report with cover letter dated 30.08.2024 (4 Sheets)
222	Exbt.P-156/1(29)	Certificate under section 63 BSA
223	Exbt.P-157(29)	Signature of PW 29 on the envelope
224	Exbt.P-158(29)	Signature of PW 29 on the Hard Disk
225	Exbt.P-159(29)	Signature of PW 29 on the cloth cover ( <b>connected to Mat Exbt LXI</b> )
226	Exbt.P-160(29)	Signature of PW 29 on the cloth cover ( <b>connected to Mat Exbt LXII</b> )
227	Exbt.P-161(29)	Signature of PW 29 on the cloth cover ( <b>connected to Mat Exbt LXIII</b> )
228	Exbt.P-162(29)	Signature of PW 29 on the cloth cover ( <b>connected to Mat Exbt LXIV</b> )
229	Exbt.P-163(29)	Signature of PW 29 on the envelope ( <b>connected to Mat Exbt LXV</b> )
230	Exbt.P-164(29)	Signature of PW 29 on the envelope <b>connected to Mat Exbt LXVI</b> )
231	Exbt.P-165(29)	Signature of PW 29 on the envelope ( <b>connected to Mat Exbt LXVII</b> )
232	Exbt.P-166(29)	Signature of PW 29 on the envelope ( <b>connected to Mat Exbt LXVIII</b> )
233	Exbt P-167 (30) (Collectively)	Signatures of PW 30 in the Memorandum dated 19.08.2024
234	Exbt P-168 (31) (Collectively)	Signatures of PW 31 in the Memorandum dated 04.09.2024
235	Exbt P-169 (31) (Collectively)	Signatures of PW 31 in the Memorandum dated 05.10.2024
236	Exbt P-170 (34)	Requisition dated 24.08.2024

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237	Exbt P-171 (34)	Envelope
238	Exbt P-172 (34)	Documents duly attested by DCP (HG) along with covering letters
239	Exbt P-173 (35)	Certified Copy of Malkhana Register(14 pages)
240	Exbt P-174 (35)	Seizure memo dated 19.09.2024
241	Exbt P-175 (35)	Covering letter along with original requisition issued by SI. P. Mukhopadhyay of WG Cell , DD Kolkata Police
242	Exbt P-104/1 (36)	Signatures of PW 36 on the Carbon Copy of requisition dated 09.08.2024
243	Exbt P-176 (36)	Mail copy of Requisition for Photography & Videography of holding Inquest & P.M. Examination
244	Exbt P-43/3 (37)	Signatures of PW 36 in the Inspection Memo
245	Exbt P-43/4 (37)	Inspection Memo dated 14.08.2024
246	Exbt P-177 (37)	Interim report dated 21.09.2024 (8 sheets)
247	Exbt P-178 (37)	Final Report of Board dated 22.10.2024 (9 sheets)
248	Exbt P-179 (37)	Letter under cover memo dated 07.11.2024 (3 sheets of paper and 1 envelope)
249	Exbt P-180 (39)	Requisition from DC (North), Kolkata Police
250	Exbt P-181 (39)	Note Sheet mentioning Observation along with a Sketch
251	Exbt P-181/1 (39)	Signed copy of Note Sheet mentioning Observation
252	Exbt P-182 (39)	Attested copy of the docket of the original file
253	Exbt P-183 (39)	Seizure Memo bearing the Signature of PW39
254	Exbt P-184 (40)	Signatures of PW 40 in the memorandum dated 16.08.2024
255	Exbt P-185 (40)	Signatures of PW 40 in the hash value generation report
256	Exbt P-186 (40)	Signature of PW 40 in the seizure memo dated 17.08.2024
257	Exbt P-184/1 (40) (objected to)	Signature of Sucharita Sarkar in the memorandum
258	Exbt P-185/1 (40) (objected to)	Signatures of Sucharita Sarkar in the hash value generation report
259	Exbt P-187 (41)	Signature of PW 41 in the seizure memo dated 12.08.2024
260	Exbt P-188 (41)	Four certificates along with separate hash value generation reports
261	Exbt P-186/1 (41)	Signature of PW 41 in the seizure memo dated 17.08.2024
262	Exbt P-184/2 (41)	Signatures of PW 41 in the memorandum dated 16.08.2024
263	Exbt P-189 (41)	Signatures of PW 41 in the carbon process of memorandum dated 18.08.2024
264	Exbt P-190 (42)	Signatures of PW 42 in the memorandum dated 17.08.2024
265	Exbt P-191 (42)	Acknowledgment receipt dated 17.08.2024
266	Exbt P-192 (42)	Acknowledgment receipt of CFSL regarding two number of parcels dated 17.08.2024

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267	Exbt P-189/1 (42)	Signatures of PW 42 in the memorandum dated 18.08.2024
268	Exbt P-193 (42)	Acknowledgment receipt of CFSL regarding the four sealed cloth packets dated 18.08.2024
269	Exbt P-194 (43)	Acknowledgment receipt of CFSL regarding the two sealed cloth packets dated 26.08.2024
270	Exbt P-195 (44)	Memorandum Dated 18.08.2024
271	Exbt P-195/1 (44)	Signature of PW 44 and Dr. Molly Banerjee in the Memorandum Dated 18.08.2024
272	Exbt P-196 (44)	Signature of PW 44 and Moli Banerjee
273	Exbt P-197 (44)	Certificate u/s 63 of BSA along with hash value generation report dated 18.08.2024
274	Exbt P-105/1 (44)	Signature of PW 44 in the PM report
275	Exbt P-198 (45)	Seizure memo dated 24.08.2024
276	Exbt P-199 (45)	Seizure memo dated 16.08.2024
277	Exbt P-200 (45)	Specimen of Brass seal
278	Exbt P-141/1 (45)	Personal property list dated 10.08.2024
279	Exbt P-43/5 (46)	Signature of PW 46 in the in the Inspection Report
280	Exbt P-201 (46)	Detailed Crime examination report
281	Exbt P-202 (47)	Report along with covering letter vide report no. CFSIKOI/1772/PHY/109/24 dated 23.08.2024
282	Exbt P-203 (47) (collectively)	Signatures of PW 47 in the outer and inner envelopes
283	Exbt P-204 (49)	E-mail regarding the formation of the <b>SIT</b>
284	Exbt P-140/1 (49)	Seizure list dated 10.08.2024
285	Exbt P-205 (49)	Memo of arrest & Inspection Memo
286	Exbt P-206 (49)	Requisition to SSKM Hospital dated 10.08.2024
287	Exbt P-207 (49)	Prayer for Police Custody of the accused
288	Exbt P-208 (49)	Prayer for obtaining permission for extraction of videos images/Text chats
289	Exbt P-209 (49)	Prayer for obtaining permission for Collection of Blood Samples of the Accused for DNA profiling
290	Exbt P-210(49)	Prayers for tagging of Tala P.S. UD case no 861/2024 with the main case Tala P.S. 52/2024 and obtaining copy of inquest report
291	Exbt P-211(49)	Seizure list dated 12.08.2024
292	Exbt P-212(49)	Specimen Brass Seal
293	Exbt P-213(49)	Seizure list dated 11.08.2024
294	Exbt P-187/1(49)	Seizure list dated 12.08.2024
295	Exbt P-214(49)	Specific Portion of Statement of Sanjay Roy indicating leading to Discovery
296	Exbt P-215(49)	Seizure list dated 12.08.2024
297	Exbt P-216(49)	Seizure list dated 12.08.2024
298	Exbt P-217(49)	4 Signatures of PW49 on the 4 Envelopes containing steel color metallic padlock, C type data cable, Adapter, Key Ring
299	Exbt P-218(49)	Signature of PW49 on the Label of Helmet



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300	Exbt P-149/1(49)	Signature of PW49 on the Label of the Envelope in which the Mobile Phone was kept.
301	Exbt P-219(49)	Memorandum dated 02.09.2024
302	Exbt P-220(49)	Signature of PW49 on the envelope
303	Exbt P-221(49)	Handing over and taking over Memo dated 13.08.2024.
304	Exbt P-222(49)	Memorandum dated 14.08.2024
305	Exbt P-223(49)	Custody hand over memo dated 14.08.2024
306	Exbt P-224(49)	Covering letter dated 27.08.24 by which Written Representation of resident doctor was handed over to the CBI
307	Exbt P-64/1(49)	Signature of PW49 on the label of the T shirt.
308	Exbt P-63/1(49)	Signature of PW49 on the label of the Footware.
309	Exbt P-60/2(49)	Signature of PW49 on the label of the Jeans Pant.
310	Exbt P-225(50)	FIR drawn by CBI
311	Exbt P-43/6(50) (collectively)	Signature of PW 50 in the in the Inspection Report
312	Exbt P-46/1(50)	Production cum seizure memo dated 16.08.2024
313	Exbt P-98/1(50)	Production cum seizure memo dated 16.08.2024
314	Exbt P-184/3(50)	Memorandum dated 16.08.2024
315	Exbt P-186/2(50)	Seizure memo dated 17.08.2024
316	Exbt P-189/2(50)	Memorandum dated 18.08.2024
317	Exbt P-167/1(50)	Memorandum dated 19.08.2024
318	Exbt P-168/1(50)	Memorandum dated 04.09.2024
319	Exbt P-169/1(50)	Memorandum dated 05.10.2024
320	Exbt P-226(50)	Coverings Letters
321	Exbt P-227(50)	Covering Letter
322	Exbt P-228(50)	Toxicology Report
323	Exbt P-229(50)	Attested Copy of duty roaster 1 <sup>st</sup> year, 2 <sup>nd</sup> year and 3 <sup>rd</sup> Year
324	Exbt P-230(50)	Seizure memo of the duty Roaster
325	Exbt P-139/1(50)	Receipt memo dated 03.09.2024

**B. Defence: N/A**

Sr. No.	Exhibit Number	Description	Date
1	Exbt D-1(8)	Medical report of SSKMH dated 10.08.2024	On 14.11.2024
2	Exbt D-2(15)	Requisition dated 17.08.2024	On 20.11.2024

**C. Court Exhibits:N/A**

Sr. No.	Exhibit Number	Description
1	N/A	
2	N/A	

**D. Material Objects:**

Sr. No.	Exhibit Number	Description
1	Mat Exbt I(9)	Micro SD Card
2.	Mat Exbt II(11)	Micro SD Card bearing PM no. 1584 dated 09.08.2024
3.	Mat Exbt III(12)	Bagpack
4.	Mat Exbt IV(12)	Exercise book and writing pad
5.	Mat Exbt V(12)	Pen
6.	Mat Exbt VI(12)	Hair Clip
7.	Mat Exbt VII(12)	Computer Mouse
8.	Mat Exbt VIII(12)	Disposable Mouth guard and surgical Mask
9.	Mat Exbt IX(12)	Mobile Phone , Data cable and adapter with the Sim Jio
10.	Mat Exbt X(12)	Laptop
11.	Mat Exbt XI(12)	Water Bottle
12.	Mat Exbt XII(12)	Shoe
13.	Mat Exbt XIII(12)	Backpack
14.	Mat Exbt XIV(12)	Debit Card , Pan, Identity card and Visiting Card
15.	Mat Exbt XV(12)	Medicines
16.	Mat Exbt XVI(12)	Register
17	Mat Exbt XVII(12)	Ear Phone
18	Mat Exbt XVIII(12)	Bed Sheet
19	Mat Exbt XIX(12)	Multi Colour synthetic Cotton
20	Mat Exbt XX(12)	Spectacles with one glass
21	Mat Exbt XXI(12)	Jeans Pant and Panty
22	Mat Exbt XXII(12)	Kurti and Bra
23	Mat Exbt XXIII(14)	Micro SD Card
24	Mat Exbt XXIV(14)	Micro SD Card
25	Mat Exbt XXV(15)	Liquid blood Sample
26	Mat Exbt XXVI(17)	Jeans Pant of accused
27	Mat Exbt XXVII(17)	Chappal
28	Mat Exbt XXVIII(17)	T Shirt
29	Mat Exbt XXIX(17)	Long and Short Hair(F1 and F2)
30	Mat Exbt XXX(17)	Blanket (G)
31	Mat Exbt XXXI(17)	Blanket (H)
32	Mat Exbt XXXII(17)	Hair on the Blanket(G1)(Kept with Mat ExbtXXX)
33	Mat Exbt XXXIII(17)	Hair on the Blanket(H1)(Kept with Mat Exbt XXXI)
34	Mat Exbt XXXIV(17)	Cloth Piece
35	Mat Exbt XXXV(17)	Control of Cloth Piece
36	Mat Exbt XXXVI(17)	Scalp Hair during PM
37	Mat Exbt XXXVII(17)	Nail Cutting(N)

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38	Mat Exbt XXXVIII(17)	Pubic Hair(O)
39	Mat Exbt XXXIX(17)	Blood Samples(P)
40	Mat Exbt XL(17)	Anal Swab and anal Smear
41	Mat Exbt XLI(17)	Nipple Swab (R)
42	Mat Exbt XLII(17)	Lip Swab (S)
43	Mat Exbt XLIII(17)	Endocervical Swab (T)
44	Mat Exbt XLIV(17)	Vaginal Swab (U-1)
45	Mat Exbt XLV(17)	Vaginal Smear (U-2)
46	Mat Exbt XLVI(17)	Vulvar Mop (V)
47	Mat Exbt XLVII(17)	Two Packets containing Hair samples
48	Mat Exbt XLVIII(17)	Packet containing mobile Cover
49	Mat Exbt XLIX(17)	Two Packets containing Cloth Pieces
50	Mat Exbt L(17)	PM Blood
51	Mat Exbt LI(17)	Packet containing Urethral Swab and Smear of Sanjay Roy
52	Mat Exbt LII(17)	Packet containing Nail Clippings of Sanjay Roy
53	Mat Exbt LIII(17)	Packet containing sterile Gauze
54	Mat Exbt LIV(21)	Vissera
55	Mat Exbt LV(28)	Pen Drive containing the 51 CCTV footage
56	Mat Exbt LVI(29)	Pen Drive containing CFSL report
57	Mat Exbt LVII(29)	External Hard Drive Toshiba FED 50-2024
58	Mat Exbt LVIII(29)	DVR
59	Mat Exbt LIX(29)	DVR , Internal Hard Disk & Adaptar
60	Mat Exbt LX(29)	External Hard Drive Toshiba FED 52-2024
61	Mat Exbt LXI(29)	DVR Q1(as per report dated 25.08.2024)
62	Mat Exbt LXII(29)	DVR Q2 V(as per report dated 25.08.2024)
63	Mat Exbt LXIII(29)	DVR Q3 (as per report dated 25.08.2024)
64	Mat Exbt LXIV(29)	DVR Q4 (as per report dated 25.08.2024)
65	Mat Exbt LXV(29)	Hard Disk HDQ1 (Connected with LXI)
66	Mat Exbt LXVI(29)	Hard Disk HDQ2 (Connected with LXII)
67	Mat Exbt LXVII(29)	Hard Disk HDQ3 (Connected with LXIII)
68	Mat Exbt LXVIII(29)	Hard Disk HDQ4 (Connected with LXIV)
69	Mat Exbt LXIX(47)	Single Glass of spectacles( <b>lying with Mat Exbt XX</b> )
70	Mat Exbt LXX (49)	Mobile Phone ( <b>Kept with Mat Exbt LV &amp; LVI</b> )
71	Mat Exbt LXXI (49)	Steel color metallic padlock, C type data cable, Adapter, Key Ring
72	Mat Exbt LXXII (49)	Helmet
73	Mat Exbt LXXIII (49)	Micro SD Card(seizure on 12.08.2024)
74	Mat Exbt LXXIV (49)	Micro SD Card(seizure on 10.08.2024)
74	Mat Exbt LXXV (49)	Micro SD Card(seizure on 11.08.2024)
75	Mat Exbt LXXVI (49)	4 memory Cards (videography of seizure procedures)

**J U D G E M E N T**

It was 9<sup>th</sup> day of August, 2024. The day started as normal as of regular.

Suddenly a news was spread like a wildfire that one on duty lady doctor was brutally raped and murdered at her place of work, which was R.G.Kar Medical College & Hospital, Kolkata (hereinafter it will be shown as RGKMCH).

This 9<sup>th</sup> day of August is also famous in world history as on that day atom bomb was dropped on Nagasaki, Japan in the year 1945.

This incident of 9<sup>th</sup> August 2024 shook the nation as the incident of 9<sup>th</sup> August, 1945 shook the world.

**Fact of the case:-**

The father of the said victim had lodged a complaint at Tala PS, in the jurisdiction of which the RGKMCH situates.

The said complaint was written not by ink but by the tears of the said father of the victim.

From the said complaint it came out that his daughter (the victim) joined her regular duty at RGKMCH on 08.08.2024 as usual and on 09.08.2024 in the morning the father of the victim was informed from the said hospital and he was asked to go to the said hospital, which was the place of work of the victim. He was also informed that his daughter was taken to the hospital as she was unwell.

Later, after reaching to the RGKMCH he came to know that his daughter was raped and murdered while she was on duty.

**The FIR:-**

On the basis of the said written complaint, Tala PS case No. 52 dated 09.08.2024 was started for offence U/s 64/66/103(1) BNS.

**Investigation by Police:-**

Prior to starting the specific case, the concerned PS had started one UD case vide Tala PS UD Case No. 861 dated 09.08.2024.

Afterwards an investigation was started by the said PS.

Subsequently, one Special Investigation Team (SIT) was formed, and the case was handed over to the SIT.

The said SIT had arrested one accused person, took the custody of all the seized alamats of this case, sent the required exhibits to the State/ Central Forensic Laboratory.

Afterwards, on the basis of the direction of the Hon'ble High Court, Calcutta, the Central Bureau of Investigation (CBI) was directed to take up the investigation and from the time of order of the Hon'ble Court, the CBI took up the entire investigation of the case and they have started a new case vide No. RCO482024S0010 dated 13.08.2024.

**Investigation by the CBI:-**

During investigation, the CBI team conducted the forensic investigation, sent the exhibits to CFSL, collected opinions for the AIIMS Kalyani and the MIMB regarding the cause of death of the victim. They have collected the report of DNA profiling, the examination report of the CCTV footages, examined the relevant witnesses and recorded their statements u/s 180 BNSS.

The CBI authority had also arrested two more persons in this case namely Sandip Ghosh (the then Principal of RGKMCH) and Abhijit Mondal (the then OC Tala PS) but submitted present CS against the accused facing trial.

**Process of commitment by the Ld. ACJM Sealdah:-**

The case was committed to this court on 08.10.2024 by the Ld. ACJM Sealdah and the accused Sanjay Roy was produced before this court.

As Puja Vacation of the court started, the date was fixed on 04.11.2024 for consideration of charge for this accused.

**Representation from the prosecution and the defence :-**

Ld. Special PP CBI had conducted the case for the CBI and the accused was duly represented by the Ld. LADC, duly assisted by the Ld. Deputy LADC and the Assistant LADCs.

The complainant was also represented by the Ld. Counsels by filing proper vakalatnama.

*The Ld. Counsels of the complainant were permitted to take part in the trial subject to strict compliance of S.338(2) BNSS.*

**Charge: -**

On the basis of the materials on record, charge u/s **64/66/103(1) BNS** was framed against the accused Sanjay Roy and he pleaded not guilty and claimed to be tried, when the substance of accusation was read over and explained to him.

The case thus entered into trial.

The accused faced trial from custody.

During trial, he was produced from the Correctional Home through VC following the guidelines of the Hon'ble High Court, Calcutta except the days, on which his presence was required for the purpose of identification.

*The entire trial was conducted in camera.*

**Points of consideration:-**

To establish the case, prosecution was duty bound to establish the followings:

- (a) Whether the accused committed rape upon the victim by inserting to any extent, any object or part of the body, not only his penis, into the vagina, the urethra of the victim
- (b) Whether at the time of commission of offence attracting the ingredients of S.64 BNS, the accused had inflicted such injury over the person of the victim,



which caused the death of the victim or caused the said victim to be in a persistent vegetative state.

- (c) Whether the accused had committed any act/acts by which death of the victim was caused or whether the death was caused by the act which was done with the intention of causing such bodily injury as the accused knows to be likely to cause death
- (d) Whether it was within the knowledge of the accused that the act by which death of the victim was caused, was so imminently dangerous that it must, in all probability, would cause death.

**Evidence of prosecution:-**

1. The father of the victim was examined as the **P.W-1**.
2. According to his evidence, in the year 2022 his daughter (the victim) got chance to continue her PGT in Chest Medicine at RGMCH.
3. On 08.08.2024 the victim left home at 08.10 am to join the hospital and on that date her OPD duty and night duty was for 36 hours.
4. On that day (08.08.2024) the mother of the victim had received the last call from the victim at 11.15 pm and she did not pick up the call from her mother in the morning on 09.08.2024 and on that day (09.08.2024) at around 10.53 am the PW-2 had received a phone call from the Assistant Superintendent of RG Kar Hospital and he was asked to go to the hospital as his daughter was not well but no details about her condition was stated to him.
5. It was his evidence that when he was ready to go to RG Kar, he had called to that number from which he had received the call at 10.53 am and he was informed that his daughter was taken to emergency department of the said Hospital but in spite of his repeated request, he was not informed about the actual condition of his daughter.
6. His evidence ran in the fashion that he was told by the person on the other side of the phone that she was not a doctor and as such, she was not in a position to say the condition of his daughter.
7. He deposed that when they had boarded the vehicle and was about to move towards the RGKMCH, he had received another call from the same number and he was informed that his daughter might have committed suicide.
8. On his way to the RGKMCH he had received another call from another number and one male voice had asked him to reach to hospital immediately and that police personnel already arrived at the hospital and after reaching to the hospital at around 12.15 pm, they first went to the Emergency Department and one security guard and two doctors escorted him, his wife and one assistant to the Chest Medicine Department at 3<sup>rd</sup> floor of the hospital and that there were police personnel in front of Seminar room.

9. He stated that at that time he understood that his daughter was kept inside the said Seminar Room and that he and his wife tried to take entry into the said room but police personnel prohibited them by applying force and pushed them to the Chest Medicine department and he was asked to take entry in one room and his wife was asked to enter into another room.

10. It was his version that from the discussion going on there he understood that his daughter was murdered.

11. From the said evidence it came out that the doctors of the said hospital started agitation with demand that inquest should be done in presence of the Magistrate and they also demanded that the entire episode of post mortem should be videographed and there should be representatives of Junior Doctors.

12. He stated that the said junior doctors gave a written representation to the Principal of RG Kar Medical College and Hospital and he was one of the signatories of the said representation and he had proved the said representation and his signature on it as Exbt. P-2(2).

13. It came out from his evidence that at around 1.30 pm some persons tried to take himself to the Chamber of the Principal, but he denied to go with them and he demanded that the Principal should come there

14. It was his evidence that on that day at around 3.30 pm, the Commissioner of Police (CP), Kolkata Police came out from the Seminar Room and met them and he took himself and his wife into the said seminar room.

15. That after taking entry there, he had noticed that the body of his daughter was lying on the mattress on the dais of the Seminar Room and her daughter's body up to the chest was covered with a green colour hospital bed sheet and her jeans pant and under garments were kept beside her body and the upper part of the body was more or less open and that he had seen that blood was coming out from her eyes and lips and that there were blackish colour bruise mark over her shoulder and chest and he had also noticed several marks of injuries over her face.

16. It was also his evidence that the hairs of the victim were scattered on the mattress and that her lap-top was kept open on the mattress and her mobile was also lying there.

17. He deposed that when they were about to leave the said seminar hall, he met the MLA Panihati Mr. Nirmal Ghosh and his neighbor Sanjib Mukherjee at the said Seminar Hall and the CP was talking with someone over telephone.

18. He stated that the Hon'ble Chief Minister West Bengal had talked with him over phone of the CP and that the Hon'ble CM assured him that she



would take proper steps to arrest the person(s) behind it and that she would meet them.

19. He also deposed that during his presence the Principal, RG Kar Medical College and Hospital and the Supervisor of his daughter (VP), namely Dr. Sumit Roy Tapadar did not meet them.

20. As per his evidence, at around 04.00 pm the Magistrate went to the Seminar Hall to conduct the inquest and his wife had signed in the inquest report. He had proved the signature of his wife as Exbt.P-3(2) Objection was raised from the defence for marking the signature of the mother of the victim, but it was marked as Exhibit by noting the objection.

21. It was his evidence that one of his neighbor Manas Deb was present at the time of post mortem and that when the post mortem was under progress, he, along with Sanjib Mukherjee went to Tala PS to lodge complaint at around 06.00 pm and the said complaint was written by Sanjib Mukherjee under his instruction and he had proved his signature in the said written complaint as Exbt. P-1/1(2)].

22. He deposed that after lodging of the complaint he again came back to RG Kar hospital and noticed that from the morgue the dead body of his daughter was shifted to the hearse and that after coming out from the main gate of RG Kar Hospital the said hearse rushed at high speed and they could not follow it. So they went to Tala PS again to trace out the whereabouts of the said dead body bearing cart and himself and his wife decided that they would make a prayer at Tala PS for second PM of the dead body of the victim but police did not pay any heed to it.

23. That at around 10.00 pm they came back to their residence and at that time local MLA Nirmal Ghosh and Sanjib Mukherjee took DC North to the first floor of his premises and the DC, North gave him a packet and stated that some liquid cash was there for their purpose, but he had refused to accept the same.

24. It was his evidence that after performing the last rituals, the police personnel hurriedly took the dead body to crematorium and there, by breaking the queue the dead body of his daughter was taken for cremation and Cremation Certificate was issued.

25. During cross examination he stated that there was something fishy for which the cremation was done hurriedly and that the Hon'ble Chief Minister, WB visited his residence and stated to him that as his daughter died on duty, her family members were entitled to get some compensation but at that moment he had refused to accept any compensation.

26. He also deposed that the marriage between his daughter and Dr. Sayantan Chattopadhyay was fixed in the month of November 2025.
27. He also admitted that he heard that the research papers of his daughter was given to another by the guide of his daughter Dr. Tapadar.
28. The writer of the complaint namely Sanjib Mukherjee, one of the neighbours of the victim, was examined as the **PW-1**.
29. According to him, on 09.08.2024 at around 11.30 am he had received a phone call from the father of the victim (PW-2) and that he was crying and stated to him that some untoward incident occurred with his daughter at her place of work and he was requested by him to visit his place immediately.
30. He stated before this court that within 15 minutes he had received another call from the PW-2 and at that time the PW-2 informed him that his daughter was murdered due to infliction of torture upon her.
31. As per the evidence of the said PW, he had reached to RG Kar Hospital at around 01.00 pm and that he was informed that the parents of the victim and her other relatives were waiting at the chamber of HOD close to the Seminar Room of the said hospital.
32. According to him, in his presence, the dead body of victim was sent for Post mortem examination and thereafter at around 6.00/6.30 pm he along with the father of the victim went to Tala PS to lodge the complaint and that on request of the father of the victim he wrote down the complaint as per the instruction of the father of the victim, sitting at Tala PS. He had proved the said complaint as Ext-P-1(1).
33. According to him, after lodging of the complaint he along with the father of the victim went back to RG Kar Hospital.
34. He also stated that that the cremation of the dead body of the victim was done at *Panihati Municipal Crematorium* and he was present at the time of the said cremation.
35. He also stated that the cremation of the body of the victim was done out of turn when other two dead bodies were there for cremation on the queue.
36. He had named the persons present there at the crematorium in his examination in chief (Paragraph-15)
37. During cross examination he stated that he had stated to the CBI authority that when he went to RG Kar Hospital, he had noticed that the parents of the victim were not allowed to take entry into the Seminar Hall by the police and that the attitude of the police personnel were not sympathetic to the family of the victim.

38. He also stated that he had stated to CBI that the Chief Minister of West Bengal visited the house of the victim but he did not say that the CM Madam offered some condolence amount to the father of the victim but he refused.

39. He admitted during cross examination that he had received a call from the OC, Ghola PS on 11.08.2024 at 10.11 pm and he was asked by OC, Ghola PS whether the family of the victim had stated to the Media that police officer tried to give them bribe to suppress the issue but he did not call the parents of the victim after getting the call from OC, Ghola PS.

40. His evidence ran in the fashion that subsequently, he got a call from the father of the victim, and he went to the place of the victim and at that time, he had received another call from the OC, Ghola PS.

41. Prosecution examined one House Staff of Chest Department of RG Kar Medical College and Hospital namely Dr. Gulam Azam as the P.W-3.

42. According to his evidence, the victim of this case was known to him as his senior colleague of RG Kar Medical College and Hospital.

43. His deposition was that on 02.05.2024 he had joined as House staff of Chest Medicine Department of RG Kar Medical Collage and Hospital after completion of his internship and that as House Staff he was provided night duties twice in a week from 09.00 pm to 09.00 am and that generally he used to do his duty in the ground floor of Emergency Building in the General Emergency Ward.

44. He stated that on 08.08.2024 he had joined his duty at around 09.10 pm and that it was the convention of Chest department that the seniors generally provide the dinner and on their call all had to attend the dinner.

45. It was his version that on 08.08.2024 while he was on duty, Dr. Arka Sen had called him at around 11.10 pm and at that time, he told him that he was busy with a patient and that he would call him later.

46. From his evidence it came out that Dr. Arka Sen again called him at 11.20 pm and told him that food packet already came and he had asked him to go to the third floor of Emergency Building (Chest Department) and then on purchasing of drinking water, he went to the third floor at around 11.40 pm.

47. We came to know from his evidence that usually they take their dinner at the Sleep Room situated at the third floor and accordingly, he went to the said Sleep Room but did not find his seniors in the said room and then he went to the Seminar Room adjacent to the said Sleep Room and noticed that Dr. Arka Sen, the victim and Dr. Soumitra Roy were there in the said room and were doing their respective works and then on request of the victim, he

had called Dr. Subhadip Singha Mahapatra and asked him to come to the said Seminar Room to take dinner.

48. Then himself, the victim, Dr. Soumitra Roy, Dr. Subhadip Singha Mahapatra, Dr. Arka Sen took dinner at the said room and were observing the Olympic events in his mobile at the time of taking dinner and their dinner was completed at around 12.45 am and they gossiped there upto 01.05am and he went back to his Ward at around 1.30 am.

49. It was his evidence that on that date Dr. Arka Sen was on duty at the Emergency Ward as PGT from Chest Department.

50. From his evidence we came to know that during his visit to the patient he had noticed that the condition of one of the patients deteriorated and accordingly, he had called Dr. Arka Sen and took advice from him and he was suggested by Dr. Sen to perform ABG Test (Arterial Blood Gas) and he had drawn the blood from the patient for the said test at around 02.40 am and went to R.C.U Room ( Respiratory Care Unit) situated at third floor of Chest department for the said test as the apparatus of the Emergency Ward was not working at that time and at 2.50 am he got the Report and went to the Seminar Room to get Dr. Arka Sen to show him the Report.

51. According to him, the entry gate of the Seminar Room was partially open and that from the gate he had seen that the victim was sleeping on the dais of the said Seminar Room on a mattress.

52. As per his evidence, he had called Dr. Arka Sen but no one gave reply from the said Seminar Room and then he went to the Sleep Room and found that Dr. Arka Sen was there and he had placed the ABG report to Dr. Sen and that Dr. Sen advised him to discharge the patient and to ask the patient to come to OPD and on getting the advice, he went to Emergency Ward at around 3.00 am and at around 3.20 am he left Emergency Ward and went to his hostel to take rest.

53. His evidence was that at around 08.55 am, he again went to the Emergency Ward after having his breakfast at around 09.05 am he left hospital and went to private Nursing Home.

54. He deposed that while he was working at the Nursing Home, his colleague Dr. Kriti had called him at around 10.28 am and asked him whether it was within his knowledge about the commission of suicide of the victim at the Chest Department of RG Kar Medical Collage and Hospital and on hearing the same, he had called on duty intern Dr. Anjanashru Abhishek and he informed him that victim was found dead in the Seminar Room.

55. During his cross examination he stated that the RG Kar Police Out Post situated at the ground floor of the Emergency Department and it takes

about 2/3 minutes to go to the said-Out Post from Chest Department by availing lift.

56. He also stated that no official roster was there about distribution of duties of the House Staff and the roster generally prepared from the first year PGT.

57. He deposed that the rest room for interns and the Sleep Room were opposite to each other and that from the said Sleep Room one can take entry into the Rest Room for Interns by opening the door through corridor.

58. It was also his evidence that there was one corridor in between the Seminar Room and the Rest Room for interns and at one end of the said corridor there is Resistant TB Ward and that there is one Nursing Station at the said TB Ward. He also stated that from the said TB ward Seminar Room can be accessed through corridor.

59. From his evidence we also came to know that there were male and female wards opposite to the Nursing Station close to the Chest Department.

60. He deposed during cross examination that he had stated to CBI that he had seen someone to sleep in the Procedure Room on bench and that the said Procedure Room situated close to the Nursing Station.

61. He also stated during cross examination that he had intimated the victim that someone was sleeping on the bench in the Procedure Room and the victim had asked the lady Group D staff to ask the said person to leave the place as the said area was prone to infection. I know the victim as the second year PGT of Chest Department and I was the first Year PGT of Chest Department of RG Kar Medical College and Hospital.

62. Prosecution had examined Dr. Arko Sen as the P.W-4.

63. According to the evidence of the said doctor, as the PGT, they generally report to their department (Chest Department) every day at around 09.00/09.30 am and then they go to their respective units to visit the patients.

64. He also described the duty hours of the PGTs by saying that they had to do the on call duty for around 30 hours 6/7 times in a month and on other days their general duty hours ends at around 4.00 pm and that on the days of on call duty, they generally do the duty from 09.00 am to 09.00 am on next date and after doing the general duties they leave the hospital at around 04.00 pm.

65. According to him, on 08.08.2024 he was on call Emergency duty and had joined at around 09.30/10.00 am and his said on call emergency duty was scheduled to end at around 08.00 am on 09.08.2024 and afterwards his general duty was started from 09.00 am on 09.08.2024.

66. His deposition was that on 08.08.2024 the victim placed the order through the food delivery App for the dinner for 5 heads including himself, the victim, Dr. Golam Azam, Dr. Soumitra Roy and Dr. Subhadip Singha Mahapatra and within 11.10/11.15 pm, all the orders placed by them, were delivered.

67. As per his evidence, there was one Seminar Room at the third floor of Emergency building inside the Chest Department and that they took their dinner at the said Seminar Room by placing table and chairs on the dais of the said room.

68. It was his evidence that they have completed the dinner at around 1.00/1.15 am and after washing hands he went to the Sleep Room to visit a patient and was working there.

69. He deposed that at around 02.00/2.15 am he went to the Seminar Room to bring his bag and he found that the victim was sleeping on the dais in the Seminar Room by covering herself with a red colour blanket and that he came back to the Sleep Room with his bag.

70. It was also his evidence that at around 2.15 am Dr. Golam (PW-3) had called him seeking advice about a patient in the Emergency ward and he had advised for ABG test and that at around 3.00 am Dr. Golam met him at the sleep room and placed the ABG report and he had advised him to discharge the patient and would ask him to visit the OPD on the next date and after taking advice Dr. Golam left the Sleep Room.

71. According to him, at around 3.30 am Dr. Soumitra came to the Sleep Room and he and Dr. Soumitra took rest in the Sleep Room.

72. His evidence ran in the fashion that at around 09.00 am he went to the nursing station from the Sleep Room to join his regular duty as usual and at around 09.30 am Dr. Soumitra Roy informed that he tried to call the victim as the round would start and as she was on duty and he had requested him to call the victim and that he tried to call the victim but could not connect.

73. His evidence was that then he went to the Seminar Room to call the victim and that the door of the said Seminar Room was kept ajar and that he alone entered the said Seminar Room and had seen the victim in naked position (lower portion) and the upper portion kurti was also moved upwards and breasts were visible and that he had also noticed some injury marks over her nose.

74. He stated that then he got panicked and went to the Nursing Station and met his colleague like Dr. Puja, Dr. Priya, Dr. Venila and he somehow narrated what he had seen in the Seminar Room.



75. According to him, then Dr. Priya and Dr. Venila had intimated Dr. Sumit Roy Tapadar, who was the Visiting Physician (VP) of the unit of the victim and the victim was the PGT under Dr. Tapadar and that Dr. Sumit Roy Tapadar went to the Seminar Room and examined the victim and tried to get the heart bit by using stethoscope.

76. His evidence was also that he was present at the said spot and on seeing the body it seemed that the victim was no more and that under the instruction of Dr. Sumit Roy Tapadar, the body was covered with one bed sheet.

77. He was cross examined in full and during his cross examination he stated that there was no CCTV in the corridor in between the Sleep Room and the Seminar Room.

78. It also came out from his evidence that the First year PGT students usually would prepare their own roster.

79. He deposed during cross examination that on 08.08.2024 the mother of one Sayan Das was there in the Sleep Room for her sleep study and that at around 1.00/1.15 am he found that the patient was not asleep and as the Sleep Study came to an end, he had asked the said Sayan Das to take the patient to the ward.

80. Prosecution had examined Dr. Pooja Rai as the P.W-5.

81. According to the said doctor, on 09.08.2024 she went to join her duty at around 09.00 am and that at that time, Dr. Venila, Dr. Priya Giri, Dr. Arko Sen were present at the Nursing Station situated at 3<sup>rd</sup> floor of Emergency Building of RG Kar Medical College and Hospital.

82. When she was checking the files of patients, Dr. Arko Sen (PW-4) came to the said Nursing Station in a panicked condition and he had asked to go to the Seminar Room and stated that something happened with the victim.

83. As per the evidence, then the P.W-5, Dr. Arko Sen, Dr. Priya Giri and Dr. Venila went to the Seminar Room and after taking entry into the Seminar Room he had noticed that victim was lying on the mattress on the dais of the said Seminar Room.

84. She had described the colour of wearing of the victim, which was a pink colour kurti and that she had noticed that the said kurti was moved upward by exposing breast part and there was no clothing in her lower portion and the lower portion was naked.

85. She also stated that she had noticed that the blue colour jeans pant of the victim was lying beside her body but she did not notice any under garments and she had also noticed that her shoes were on the dais and her



books, laptop and mobile were kept in between her head and the wall of the Seminar Room on the dais.

86. As per her evidence, she had noticed bruise mark over both sides of face of the victim and that her eyes were partially opened.

87. According to her, Dr. Priya and Dr. Venila went to intimate this matter to Dr. Sumit Roy Tapadar, Associate Professor of Chest Medicine Department of RG Kar Medical College and Hospital and at that time, Dr. Tapadar was in Chamber of HOD and that within a few moment Dr. Tapadar along with Dr. Priya and Dr. Venila came to the Seminar Room.

88. She deposed that after coming to the spot, Dr. Tapadar had examined the body of the victim to ascertain the condition of the victim and that he had examined the eyes of the victim by using the flash light of his mobile and Dr. Tapadar told them that the pupils were fixed and dilated which implied that the victim was no more. She specifically stated that at that time she was present at the said spot during examination of the body by Dr. Tapadar.

89. It was stated by her that to maintain the dignity of the victim, Dr. Tapadar instructed to cover the body with a bed sheet and one GDA namely Robi had produced one blue colour bed sheet and the PW-5 had covered the body of the victim with that blue colour bed sheet.

90. It was also her version that from the Seminar Room Dr. Tapadar had called someone over phone but she could not say exactly with whom he had talked/communicated.

91. During his cross examination she deposed that Dr. Priya Giri was also a first year PGT.

92. It was also her version that there was a lift in the close proximity of the nursing station and that after coming out from the said lift, one has to take right turn to reach to the corridor and at the right side of the said corridor the Seminar Room was situated and that at the end of the said corridor, the MDR TB ward is situated and that from the MDR TB ward one can take entry into the Seminar Room through the corridor.

93. She admitted that the victim was her room-mate while she spent her days at hostel as PGT.

94. She stated during her cross examination that one day prior to this incident, while she was taking rest at the said Seminar Room at night, one person in intoxicated condition entered there and she raised voice and that she had brought it to the notice of the her HOD but no action was taken.

95. Prosecution had examined Dr. Sumit Roy Tapadar as the P.W-6. According to him, the victim was known to him as she was a second year PGT under him.

96. He had explained his usual duty hours as 09.00 am to 04.00 pm from Monday to Friday and on Saturday it was 09.00 am to 02.00 pm and Sunday was holiday.

97. According to him, the PGT students generally engaged for two shifts of 12 hours each and that it was the prevailing practice that the PGT students of every year would have to prepare their roster sitting between themselves and the same was placed to the HOD for approval.

98. According to him, on 08.08.2024 he had joined his duty at around 09.00 am and had conducted the OPD and the victim was also with him in the OPD and that on 08.08.2024 the victim, Dr. Soumitra Roy and Dr. Arko Sen were on night duty.

99. He introduced Dr. Golam was the house staff and Dr. Suvadip Singha Mahapatra as the intern.

100. It was his evidence that on 09.08.2024 he had joined within 09.30 am and went to the chamber of HOD to sign in the attendance register and took some rest there before going to the ward and was alone at the said chamber of HOD.

101. He stated that at that time, two first year PGT namely Dr. Priya Giri and Dr. Venila came to the chamber of HOD and they were sobbing and were very much disturbed and that they could not complete any word but told him the name of the victim and asked him to go to the Seminar Room immediately and then he had rushed to the Seminar Room with Dr. Priya Giri and Dr. Venila.

102. According to him, immediately after taking entry to the Seminar Room he had noticed that at the furthest end of the Seminar Room, where the dais was placed, the victim was lying on a mattress on the said dais in a very unnatural way and that he had noticed that the two lower limbs of the victim were wide open and she was in half naked condition. As per his evidence, the lower limbs and the abdomen were completely exposed, the kurti of the victim were moved upwards and breasts were exposed, the head of the victim was leaning towards right side and that there was no body movement or respiratory movement of the victim.

103. According to him, it seemed to him that the victim already expired and that in order to confirm about the condition of the victim, he went to the dais and checked the left eye of the victim by using the flash light of his mobile and had noticed that the pupil was dilated and fixed and that he had also noticed several injury marks over the nose and mouth area of the victim.

104. As per his version, at that time, he was confirmed that the victim was no more and that on seeing the condition of the victim, he was of the self-opinion that the said victim was subjected to sexual assault and murder.

105. He deposed that to keep the dignity of the body he had asked the Ward Sister to cover the body with a bed sheet and that the Ward Boy brought one bed sheet and under his instruction, Dr. Pooja had covered the dead body with the said bed sheet.

106. He also deposed that he had instructed the Sister to intimate the RG Kar Medical College and Hospital Police Out Post as he thought the said area should be cordoned by police immediately and that he had instructed the PGTs not to take entry in the said room.

107. According to him, then he had called the HOD, who was the Administrative Head of the department and that he was instructed by the said HOD (Dr. Arunava Dutta Chowdhury) to intimate the matter to the MSVP (Dr. Sanjoy Basisth) and the Principal (Dr. Sandip Ghosh).

108. According to his evidence, he had called the MSVP but somehow the MSVP could not receive his call at that moment and that then he had called the Deputy Superintendent (Non-Medical) Mr. Surajit Sen and he had received his call and informed him that as he was not on duty at that time, the Assistant Superintendent (Non-medical) Ms. Sucharita would come to him.

109. He also deposed that he had tried to contact with the Principal, RGKMCH but somehow he also could not receive the call and then he sent one SMS to the Principal from his mobile asking him to call immediately for an urgent matter and within 5 minutes the Principal had called him and he had informed the Principal about the incident.

110. According to the evidence, the Principal had instructed him to send the body to morgue immediately to prevent any sort of problem in the hospital and that he told the Principal that the body could not be sent to morgue without any investigation by police as the matter was already intimated to police and he also told him that as the Principal had directed him (PW-6) to inform the Assistant Superintendent (Non-Medical), he would communicate her.

111. As per his evidence, subsequently the HOD came to the department and went to the Seminar room and came back to his chamber with the Assistant Superintendent (Non Medical), Sucharita Madam and as Police already cordoned the place the PW-6 also left the said place and went to the chamber of HOD.

112. According to him, the police personnel asked for the identity proof of the victim and at that time, it came to his mind that Declaration Form of

every PGT are sent to NMC (National Medical Council) and obviously, the copy of the Aadhar Card of the victim might be there in the bunch and accordingly, under his instruction Dr. Debabani Biswas brought out the Declaration Form of the victim from the bunch and copy of the Aadhar Card of the victim was scanned and handed over to police immediately and then they have decided to inform the family members of the victim and from Dr. Alapan who was also a second year PGT, they got the phone number of the parents of the victim and the Assistant Superintendent (Non Medical) Sucharita Madam had called the family members of the victim from the official mobile in presence of the PW-6 and informed the family members that the condition of the victim was serious and that she had asked them to come to RG Kar Medical College and Hospital immediately.

**113.** From his evidence it also came out that the father of the victim immediately called back to the said official number as he was anxious to know the condition of his daughter and at that time, Assistant Superintendent (Non Medical) replied him that probably the victim committed suicide.

**114.** According to him, he and the others present there, had asked Sucharita Madam why she had used the term *suicide* during conversation with the father of the victim and they have protested it.

**115.** He deposed that, as the other PGTs were not in the mental state to continue their OPD, Dr. Debaran went to do their work in the OPD and the PW-6 alongwith other doctors went to meet the indoor patients.

**116.** According to him, during his round in the indoor ward, he had noticed that the Principal had already arrived and he was talking with the PGTs standing on the corridor in front of Chest Department.

**117.** From his evidence it also came out that the Principal had called an urgent meeting over the issue and after completion of his round in the indoor ward he went to attend the meeting at the Platinum Jubilee Building with two other doctors of Chest Department namely Dr. Silajit Sarkar and Dr. Debasish Karmakar and that after arriving there they have noticed that the said meeting room was closed. So, after waiting there for a while they were about to come back to their department.

**118.** It was his evidence that as there was assembly of so many persons, they have decided to wait at the room of EMO at the ground floor of the Emergency Building and was there for around an hour and during that time he got a call from Dr. Soumya and he told him that the Principal had constituted one Investigation Committee and that the PW-6 was asked to present in the meeting in the said Committee at the chamber of HOD and

accordingly, he along with Dr. Silajit and Dr. Debasish went to their department by using the staircase.

**119.** According to the evidence of the said witness, the said Investigation Committee was constituted by the Principal with around 7 Faculty Members of different departments of RG Kar Medical College and Hospital except any faculty of Chest Department and the PW-6 alongwith the others were called one by one to make their statements to the said Committee.

**120.** He also deposed that as directed by the Principal, they did not leave the hospital till 11.00 pm.

**121.** During his Cross-Examination he stated that he made his statement to the CBI and he told the CBI that he had no idea regarding the whereabouts of the victim from 04.00 pm to 08.00 pm on 08.08.2024 and that the members of forensic team, police authority were there in the chamber of HOD.

**122.** He also admitted that he did not take any effort to lodge any complaint.

**123.** He also stated that he had intimated the CBI team that the victim had suffered a minor accident while returning home from the hospital on any day prior to the date of incident and that she had sustained injuries on her tongue lips and abrasion on her hands and leg and he voluntarily stated that the said accident took place a few months ago from the date of incident.

**124.** Prosecution had examined Dr. Pali Samaddar as the P.W-7, who was the EMO on 09.08.2024 in the morning shift.

**125.** According to her, on that day (09.08.2024) at around 10.00 am the HOD of Chest Department (Dr. Arunava Dutta Chowdhury) came to Emergency as the Biometric Device to note the entry and exit, was kept close to her place of seat.

**126.** It was her specific version that she did not know the HOD and the said HOD told her that he came to know over telephone from Dr. Sumit Roy Tapadar that there was an incident of death of one Second Year PGT at the Seminar Room of Chest Department and he wanted to know from her the next procedure to be followed in such type of matter.

**127.** She had deposed that she told him that she was not in a position to opine without examining the dead body and as such the HOD had requested her to go to the Seminar Room and she went there after doing her some urgent works.

**128.** She stated that after reaching there, she had noticed that one officer of RG Kar Police Out Post was present there, the door of the Seminar Room was closed and the HOD, Chest Department was also there.

129. Her evidence was also that under the instruction of the HOD, the police officer opened the door, and she took entry into the Seminar Room with the said police officer and the Group D staff who had accompanied her namely Dilip Kamti.

130. As per her evidence, the body was covered with bed sheet and the body was lying on a mattress on the dais of the said Seminar Room.

131. She deposed that without touching the body she became sure from her experience that the said victim was no more.

132. Her deposition before this court ran in the fashion that she then went to the chamber of HOD situated opposite to the Seminar Room and informed the HOD that she required three items – 1. emergency ticket with registration, 2. ID proof of the victim, 3. brought by someone to the emergency department and left the chamber of HOD and went to the Emergency Department.

133. It was her evidence that at around 12.45 pm she had received a phone call from a person and she was asked to meet the HOD, Chest department and accordingly she went to meet the HOD and the HOD had instructed her to issue the Death Certificate and she had asked the HOD to provide her the Emergency Ticket and the same was produced to her by one police officer alongwith the scanned copy of Aadhar card of the victim.

134. According to her, she had instructed the police officer to bring the body to the emergency department but due to ongoing agitation, the police officer told her that it was not possible to remove the dead body from the place and to take it to the Emergency Department.

135. It was her evidence that then under the instruction of the MSVP Dr. Sanjoy Basisth, she had examined the body in the Seminar Room and prepared the Death Report and Injury Certificate in the prescribed format of the hospital sitting at the Emergency Department and she had proved the same as Ext-P6(7) & P7(7).

136. According to her, SI S.K.Jha of Tala PS also signed in the said document and the entire procedure was completed by 01.47 pm.

137. She also deposed that as per the process, the said Certificate of Death was placed to the Morgue Office, which was an administrative office and at 04.00 pm, she went the Morgue Office and pen through the PS of the residence of the victim. She stated that previously the PS was written as Panihati but it would be Ghola and accordingly, she had rectified the same by putting initial.

138. During her cross examination she stated that there was no crowd during her first time visit but when she had visited the said room for the



second time, there were huge number of persons there including the police personnel and that her first visit was at around 10.00 am and the second visit was after 12.45 pm.

**139.** She admitted that in the injury certificate she did not mention any injury over the body of the victim and the same was clarified by her by making the following voluntary statement *“(Voluntarily says):- This is our usual practice that when from the medicine side we send any body for post mortem, we do not mention any injuries over the body of the subject”*.

**140.** She admitted that she did not mention this usual practice to the CBI authority.

**141.** She also stated that it was not written in the certificate of death or the injury certificate that she had examined the dead body. She also gave an explanation by saying *“(Voluntarily says):- As without examination of any body we did not issue the certificate of death, the question of writing of the line that I have examined the dead body do not require”*.

**142.** Prosecution had examined the doctor, who had examined the accused at SSKM Hospital, Kolkata on 10.08.2024 namely Dr. Biswanath Soren as the **P.W-8**.

**143.** According to him, on 10.08.2024, he had received a requisition from Rupali Mukherjee of DD, Kolkata Police for medico legal examination of one person namely Sanjay Roy in connection with the Tala PS/DD case No. 52 dated 09.08.2024.

**144.** As per his evidence, the said person was identified to him by Sofia Mollick, OC, WG Cell and that the said person Sanjay Roy gave his consent for such medical examination in his own handwriting in the format of said report and the same was proved as Ext-P8(8).

**145.** The said doctor had described the injuries noticed by him over the body of the said person namely Sanjay Roy (the accused of this case) and the same were properly noted in paragraph no. 11 to 13 of the examination in chief and as such I do not mention it in details here.

**146.** On examination of the said injuries, the said PW gave the opinion that the injuries mentioned as one brownish, red, scabbed abrasion over the left malar prominence (0.2 inch X 0.2 inch), one brownish, red scabbed abrasion (0.2 inch X 0.2 inch) over left side of chin- 0.2 inch below vermilion line of lower lip and 0.5 inch left to the midline of chin, brownish, red scabbed abrasion over dorsal aspect of left hand at the web space in between the root of ring and little finger (0.6 inch X 0.3 inch) could be produced due to friction with rough surface and that the injuries like brownish, red, scabbed, linear abrasion (0.5 inch) placed transversely over left side of chin- 0.4 inch below



vermilion line of left lower lip and one inch led to midline of chin and brownish, red, scabbed, linear abrasion (1 inch) placed above downwards over back of left thigh 9 inch above left knee crease and 2.5 inch left to midline of thigh could be caused due to friction with pointed tip of pin like object or with nails of finger or toe and that all the said injuries occurred at any time between 24 hours and 48 hours prior to the time of examination.

147. As per the evidence, the time of examination of the said person was 12.00 pm on 10.08.2024.

148. As per the evidence, the nail cuttings and scrapping were preserved for detection of any foreign body and the same were handed over to police along with urethral swab and smears which were preserved as per procedure and the concerned document was marked as Ext-P9(8).

149. It was also the version that the entire medico legal examination was done under videography arranged by the concerned police department.

150. The said video was played in the court and the witness identified the accused in the court room.

151. During cross examination he stated that in the report it was not written that the accused was informed that the report of the said medico legal examination might go against him.

152. It was his evidence during cross examination that prior to examination of Sanjay Roy another report regarding his examination by the Emergency Medical Officer SSKM was shown to him and he had stated it to the CBI authority.

153. Prosecution had examined the photographer of Detective Department Scientific wing, Kolkata Police, who had recorded the video of the medico legal examination of the accused. (Jaydeb Rajbanshi P.W-9)

154. According to him, on 10.08.2024 he had conducted videography of the medical examination of a person at SSKM Hospital and that one Rathindranath Das was with him to take the still photographs.

155. He had mentioned the details of the camera used for this purpose and the place of storages of the said still and video.

156. He had proved the Certificate U/S 63 BSA alongwith the Hash Value certificate and the SD card where the said still and videos were stored and the seizure memo under which the same was seized by the CBI [Ext-P10(9) to P14(9) & Mat Ext-I(P-9)]

157. During his cross examination he stated that the date and time of any digital camera can be changed manually prior to taking of photographs but not after the same.

158. He also admitted that his statement was not recorded by the CBI.

159. Prosecution had examined the Ld. Judicial Magistrate, 2<sup>nd</sup> Court Sealdah, who had conducted the Inquest of the dead body of the victim (Mr. Shibasish Dey **P.W-10**).

160. According to the said witness, on 09.08.2024, on the basis of the direction of the Ld. ACJM Sealdah, he had conducted Inquest of a dead body in connection with Tala PS UD case No. 861 of 2024 and on the basis of the said order he had conducted the inquest and sent back the case record to the Ld. ACJM, Sealdah. He had proved the said Order Sheet as Ext-P-15(10).

161. According to his evidence, he had started the inquest at 04.20 pm in presence of two witnesses namely Dr. Diyasini Roy and Dr. Antra Burman and as the victim was lady, two lady witnesses were chosen to preserve the dignity of the dead body.

162. It was also his evidence that during the inquest one videographer was called to record the entire proceeding.

163. According to him, the mother of the victim was present but due to emotional reason she was sitting outside of the place of inquest.

164. The witness had mentioned in details about the position of the dead body and the injuries noticed by him. I do not want to mention the same again here.

165. The said Inquest Report was proved as Ext-P-3/1(10)

166. It was also the evidence of the said witness that some police personnel and doctors were there within the proximity of the place of inquest but not within the hearing from the said place of inquest and that one Aaya from the hospital was there to assist him at the time of inquest for turning the dead body to find out whether there were any marks of injury at the back side of the body.

167. According to him, the entire process was properly videographed.

168. During cross examination he stated that it was not noted in the report by whom the dead body was identified to him and that one Aaya from the hospital was present to turn over the dead body. At the same time the witness stated that presence of the Aya is found in the video footage.

169. It was his reply during cross examination that he did not find any injury over the back side of the dead body.

170. He also stated that he did not mention the colour of the jeans pant of the victim in his report but it was found in the video footage.

171. The Ld. JM also replied during the cross examination that he had seen that the blood came out from the eyes, were in semi dried condition.

172. Prosecution had examined the ASI Scientific Wing, DD Lalbazar, Kolkata Police Mr. Sekhar Roy, as **P.W-11**.

173. According to his evidence, on 09.08.2024 on the basis of direction of OC, Scientific Wing, he went to RG Kar Medical College and Hospital and reached there at around 01.00/1.15 pm and went to the Seminar Room situated at 2nd/3rd floor of the Emergency Building of the said hospital.

174. As per his evidence, he was asked by the ACP Bireswar Chatterjee to wait till arrival of the Ld. Magistrate, for videography.

175. He deposed that the process of inquest was started at around 04.00 pm and it continued for 15/20 minutes and that he had videographed the entire process of said inquest by using the official Sony Camera by using 16 GB micro SD card of Master Company and then he was directed by the ACP to go to the morgue for the videography of entire post mortem procedure.

176. His deposition was that the said PM procedure continued for around one hour from 06.30 to 07.30 pm and the entire PM procedure was videographed by using the same camera and the same Micro SD card was also used to store the recording.

177. He stated that on completion of the videography, he had handed over the said Micro SD card to one of the staff of the morgue of the said hospital as per the usual convention.

178. He had proved the said Micro SD Card as Mat Ext II (P11).

179. During his cross examination he stated that he did not sign in any register about my movement from Lalbazar or that he did not make any GD at Tala PS. He also admitted that no written instruction was given to him by the Additional OC, Scientific Wing.

180. According to him, he did not make any video of the sealing procedure of articles after the PM.

181. Prosecution had produced Dr. Antra Burman from their tent as **P.W-12**.

182. According to the said doctor, on 09.08.2024 she was posted at RGKMCH and on that date she took entry into the college at around 10.00 am and at around 10.30/10.45 am she had received a call from Dr. Dhiman, who was the PGT of surgery and she was informed that the body of one second year PGT of Chest Department was found in the Seminar Room of Chest Department situated at the 3<sup>rd</sup> floor of Emergency building.

183. She deposed that at that time Dr. Apurba Biswas came and she had informed him about the incident and he told her that he was already posted about the matter and then Dr. Biswas had called some person of Tala PS to visit the scene of crime.

184. According to her, Dr. Biswas told them to visit the said crime scene as they were from the department of forensic.

185. She deposed that, at around 11.00/11.10 am Dr. Apurba Biswas, Dr. Sankhadeep Mahanta, Dr. Rajorshi Dutta, Dr. Rishav Mukhopadhyay and herself visited the said Seminar Room. She stated that Dr. Biswas entered into the Seminar Room first and they were waiting outside and that they were allowed to take entry after 10 minutes waiting.

186. She also deposed that she had also noted that the Principal, RGKMCH Dr. Sandip Ghosh and some police personnel from Tala PS were also there in the said room and the FSL team, from State Forensic came to the said place and started to take photograph and evidence.

187. The said doctor stated that the body was covered with a bed sheet and one of the lady police personnel was asked by police officer to remove the bed sheet so that FSL team could do their work properly and that after removing of the bed sheet she had noticed that the body of the victim was in half naked condition, the left leg of the victim was lying outside the mattress, her left hand was on the top of her head and the right hand was kept beside the body in straight condition.

188. She also stated that the jeans pant and lower undergarment of the victim was lying at the left side of her body beside the mattress and that at the right side close to her head, her laptop, mobile phone, water bottle, radiological view box were there.

189. From the evidence we came to know that the upper garment of the victim was a pink colour kurti which was rolled upto her neck and that the victim was wearing white colour upper undergarment, which was intact but her left breast was visible and came outside the undergarment.

190. It was her deposition that the shoes and laptop bag of the victim were kept beside her body but at two different places.

191. She stated that at around 3.30 pm she again went to the said Seminar Room as all the PGTs assembled in front of the said Seminar Room and at that time, she had noticed that the then Principal, RGKMCH Dr. Sandip Ghosh, the MSVP, Dr. Sanjoy Bashist, the parents of the victim, police personnel were there at the said place.

192. She also deposed that on request of the PGTs she alongwith Dr. Diyasini Roy remained present at the time of inquest being the PGTs from FMT department.

193. She deposed in the fashion that at that time of holding of inquest, she got the scope to come closure to the dead body and on closure look she had noticed multiple scratch abrasion over the face and neck of the victim and that there was one bite mark on the right side below her chin alongwith some superficial injuries over her stomach/belly.

194. The said witness also noticed the signs of bleeding from both the eyes of the victim and also bleeding from her mouth as she used metal braces over her teeth. She had also noticed an injury over the ring finger of her right hand and one injury over her right ankle.

195. She deposed that she had noticed that one glass of spectacles of the victim was lying behind her back on the mattress and the rest part of the spectacles was at the right side of her leg.

196. She narrated that both the legs of the victim were wide apart and one hair clip (clutch) was found on the mattress between the legs.

197. She had also noticed that there was trail of blood from vagina and the mattress was soaked with blood and some other fluid.

198. She had noticed that there was a bunch of long hairs between her legs.

199. From her evidence we came to know that at the time of said inquest, she, Dr. Diyasini Roy, the videographer, were close to the body of the victim and mother of the victim was sitting at some distance from the body.

200. She had proved her signature and the signature of Dr. Diyasini Roy as Ext-P3/2 (12).52.

201. According to her, after the Inquest, the body was taken for PM but that she was not present at the time of the said PM.

202. She deposed in the manner that at around 07.30/08.00 pm she had received a call from one lady police officer of Tala PS and she was requested to be a witness of seizure as she was present at the time of holding of inquest by the Magistrate and that in her presence some articles were seized. She had proved her signatures on the labels of the seized articles and also identified the said articles. As the details are there in the deposition, I am not mentioning the same here again.

203. The next witness from the prosecution was Mr. Sourodip Lahiri, who was examined as the **P.W-13**. He was the Architect of CPWD and that on 14.08.2024 he had visited the RG Kar Hospital with the CBI team under the direction of Chief Architect, CPWD, Kolkata, alongwith three officials from the CPWD.

204. As shown by Dr. Sumit Roy Tapadar, they took the measurement of the entire room along with its adjoining area, wherefrom the dead body was found and snaps were taken and sketch map was prepared. According to him, a joint Inspection Report was also prepared and the same was proved as ExtP-43(13) collectively.

205. During cross examination he deposed that it was not possible for him to say whether anyone can take entry into the Seminar Hall without crossing

the Nursing Station situated at the third floor, which was shown in yellow colour in the sketch map.

**206.** Biren Roy Chowdhury was the next witness from the prosecution side (**P.W-14**). According to him, on 09.08.2024, under verbal direction of Additional OC, Scientific Wing, he went to RG Kar Medical College and Hospital, Police Out Post and met SI SK. Jha and OC, Tala PS and that he was taken to the third floor of Emergency Building into the Seminar Hall and that there he took 40 snaps of the said Seminar room and its adjoining corridor and the body of the victim by using Nikon-D 3500 Digital camera with one 8 GB micro SD card of company namely *Master*.

**207.** As per his evidence, after coming back to office he had kept the camera and the SD card in safe custody and took the print outs in the official laboratory.

**208.** His deposition ran in the fashion that on 11.08.2024 he again went to the said hospital under the verbal direction of additional OC, Scientific Wing and met Inspector Rupali Mukherjee, Addl, OC, WG Cell and under her instruction, he took 135 snaps of the third floor, ground floor and outside of the Emergency Building and handed over the print outs to Inspector Rupali Mukerjee without any seizure Memo and subsequently the same were handed over to the CBI authority under proper seizure memo. He had proved the said photographs and the Micro SD cards.

**209.** During his cross examination he stated that he did not sign in any register about his movements dated 09.08.2024 and 11.08.2024 and that he did not make any GDE at RG Kar police Out Post.

**210.** He had identified two Nursing Stations situated at the third floor. He also deposed that he did not issue any certificate U/s 63 BSA.

**211.** Prosecution had produced Dr. Pauline Ara Parven as the **P.W-15**. This witness collected the blood of the accused on 17.08.2024 while he was in the custody of CBI, for the DNA analysis.

**212.** According to the evidence of the said witness, before collection of blood, she had informed Sanjoy Roy the purpose of collection of blood and he gave his consent.

**213.** She had filled up two Blood Sample Authentication Forms in original and procured the signature and left and right thump impression of the accused Sanjoy Roy and the said form was duly signed by Medical Technologists Mr. Kuntal Banerjee and one CBI official as witness. The said Form was proved as *Ext-P 51(15)*. She also proved the vials in which the blood samples were taken as [Mat. Exbt. XXV(P15)].



214. During cross examination she had placed the requisition received from the CBI for this purpose and the same was marked as Exbt. D-2(15).

215. Dr. O Gambhir Singh was the next witness from the prosecution tent and he was examined as **P.W-16**. This witness was the Professor and Head of department of FMT, AIMS, Kalyani, WB on 18.08.2024 and on that date by forming a Board with Dr. Arijit Dey and Dr. Venkatesh J and the said Board had perused the videograph of the Inquest and the Post Mortem conducted over the dead body of the victim and they have also perused the hard copy of the Inquest Report and the Post Mortem Report.

216. He had identified the Mat Exbt. II(P-11) as the video clip of the inquest of the dead body and opined that the video clippings and the Inquest Report were consistent with each other.

217. He had identified the Mat Exbt. II(P-11) as the video clip of the post mortem of the dead body and opined that the video clippings and the Post Mortem Report were consistent with each other.

218. He had proved the report of the Board as Ext-P 53(16).

219. During cross examination he stated that the date and time stamps were not visible over the Mat Exbt. II(P-11)

220. Dr. Soma Roy Assistant Director and Scientist-C (Biology), CFSL, Kolkata was examined as the **P.W-17**.

221. According to her evidence, on 13.08.2024 the CFSL Kolkata had received some papers from DCP, Kolkata police bearing Memo No. 47 /WG Cell/DD. And subsequently on 16.08.2024 & 17.08.2024 the said office had received Memos from CBI bearing Memo No. 2456/RC0482024S0010 dated 16.08.2024, 05/ RC0482024S0010 dated 17.08.2024 and 12/ RC0482024S0010 dated 17.08.2024.

222. As per her evidence, since 13.08.2024 to 17.08.2024 the CFSL Kolkata had received several samples for DNA examination and she was entrusted the job of the said DNA analysis and that she had started the examination on 14.08.2024 and it continued till 20.08.2024 and that on 21.08.2024 she had prepared the report which was marked as Ext-P-55(17) & P-56(17).

223. As per her evidence, the description of the articles, which were in total 37 items, examined by her and the description of the same were noted in a table.

224. According to her version, the procedure and method adopted for the examination of the said exhibits were noted in Para no. 1 and 2 under the heading "Results of Examination" at page 5 of the report, the results of DNA examination in tabular form were noted in page No. 6, 7, 8, 9, 10, 11 of the

said report, her observation were noted under 7 points demarcated as (a) to (g) in page no. 11 and 12 of the report and her final conclusion was also noted in 9 points demarcated as (a) to (i) in page no. 12 and 13.

225. She had mentioned during her evidence that in conclusion part it was noted under point no. (a) in which articles blood could not be detected and in point no. (b) she had noted the articles in which semen could not be detected and in point no. (c) it was noted on which articles she found presence of human blood.

226. From her evidence as well as the said report it appears that the said witness found human blood over jeans pant (E-1), panty(E-2), blanket(G), bed sheet(I), cloth piece (J), synthetic cotton (L), nail cuttings and scrapings (M), pubic hair combing (O), blood sample (P), lip swab (S), endocervical swab (T), vaginal swab (U-1), brassiere (W-1), inner (W-2), kurti (W-3) and the same were from the victim and the description of the said articles were noted in the letter of the DCP, Kolkata Police, dated 13.08.2024.

227. It was also her evidence that in the said list under heading E one blue colour jeans pant and one brown colour panty was sent to CFSL and for their convenience they have marked the jeans pant as E-1 and panty as E-2.

228. She also deposed that in the said list under heading F some hair samples were sent to CFSL and it contained long hair and short hair and for their convenience they have remarked the long hair as F-1 and short hair as F-2.

229. It was her evidence that in the said list under heading W one sealed packet was sent to CFSL by Kolkata police containing wearing apparel and on opening of the said packet, three items were found therein, which were one white brassiere, one white inner and one mauve colour embroidery kurti and for their convenience they have demarcated as W-1, W-2 and W-3 respectively.

230. It was also deposed by the said witness the packet marked as X & Z were opened at the CFSL and on opening of the same, one blue jeans pant having some reddish-brown stains and one pair of black and orange Kito slipper having some reddish brown stains were found.

231. It was her opinion that on examination human blood was found over E-1, E-2, G, I, J, L, N, O, P, S, T, U-1, W-1, W-2, W-3 and the same matched with the DNA of blood sample of the victim. She also deposed that during examination she also found human blood over the articles marked as X and Z and the said blood samples also matched with the DNA profile of blood of the victim and the source of blood of the victim was the postmortem blood sample as was sent to CFSL.

232. It was her opinion and observation that saliva was detected in the nipple swab of victim (which was sent to CFSL as Exbt. R) and DNA profile of the saliva found in the said nipple swab of the victim matched with the DNA profile of Sanjay Roy as found in the blood sample of Sanjay Roy, which was sent to CFSL as Exbt. B-7.

233. She also observed that on examination of short-hairs (Exbt-F-2) was the short hair and the DNA of the said short hair matched with the DNA profile of Sanjay Roy.

234. It was her observation that no foreign materials could be detected on the nail scrapings of the accused.

235. She had identified all the articles examined by her and her signatures over the labels of the said articles (the details were mentioned in the Form, which is the part of this judgement).

236. During her cross-examination she stated that no quality control certificate was annexed with her report and that from the report the validity of anti-virus protection of the system could not be ascertained.

237. She denied the fact that the examination was not done following the norms and she also denied that there was any possibility of getting any wrong result in their system.

238. The private security personnel, who was on duty at R.G.Kar Hospital on that day namely Sanoj Kamti, was examined as the **P.W-18**. According to him, on 09.08.2024 he was on duty as Security Guard at Main Gate of Chest Department of RG Kar Hospital and that his duty hours was from 7.00 am to 1.00 pm.

239. He deposed that on that date while he was working in the Ward of the Chest Department, one senior doctor had asked him to go to the RG Kar Police Out Post and to call one police official therefrom and he acted accordingly. He could not say why he was asked to call police personnel by the senior doctor but subsequently, he came to know that one lady doctor expired in the Seminar Room of the Chest Department.

240. Prosecution had placed SI of Police Bikash Chandra Majee as the **P.W-19**.

241. According to him, on 11.08.2024 as per the verbal order of Additional OC, Scientific Wing, DD, Lalbazar he went to R.G.Kar Police Out Post and met Inspector Rupali Mukherjee in connection with Tala PS case no. 52 of 2024 dated 09.08.2024 and he was taken to the third floor in front of Seminar Room of the Emergency Building by Rupali Mukherjee and SI Prithiraj Mukherjee.

242. As per his evidence, the said Seminar Room was sealed and locked and police officials of Tala PS were present in front of the said room and they have opened the room and he along with Inspector Rupali Mukherjee and SI Prithiraj Mukherjee took entry into the said Seminar Room.

243. As per his version, he had noticed that one wooden dais was there at the South West corner of the said Seminar Room and that there was one mattress (Godi) on the said dais and the place where the said mattress was there, was identified to him as the place of occurrence.

244. He deposed that he was asked to prepare the sketch map of the said PO and its surrounding, i.e the entire third floor, ground floor, 2<sup>nd</sup> floor and fourth floor of the said Emergency Building and he had prepared the same and prepared the Final Sketch map in his office computer.

245. The said rough and final sketch maps were proved by him as Ext-P-96 (19) & Ext-P-97 (19) respectively.

246. We came to know from his evidence that on 16.08.2024 the IO of CBI had seized the four Final Sketch maps from him by preparing one seizure list and he had proved his signature as Ext-P98(19).

247. He deposed that to go to all floors the general public can use the lift numbers 2-6 situated at the Western side of the Emergency building and the other lifts like lift nos 7,8,9,10 are used exclusively by the hospital staff, doctors etc and that opposite to the lift no. 2-6 there is existence of ramp.

248. We came to know from his evidence that lift nos. 2-6 opens to a corridor and after coming from the said lifts if anyone takes right turn, they will go to another corridor extended from North to South and after crossing two glass doors the person has to take a right turn and by crossing two glass doors one can take entry into the department of Pulmonary Medicine and then by taking another right turn there are two glass doors and through the said 2<sup>nd</sup> glass door the Nursing Station of pulmonary medicine can be reached.

249. He also deposed that after crossing the said Nursing Station, one can reach to the lift no. 9 and 10 and from the said lift one has to take left turn and then a right turn and then there is a collapsible gate and after crossing the collapsible gate there is one of the doors of the said Seminar Room at the North East Corner of the said Seminar Room and the said door is always kept open and it is the only entry and exit point of the said Seminar Room. (*This route direction as stated by the witness from lift nos. 2-6 to the Seminar Room was marked during evidence by using green ink for identification*)

250. It was his evidence that there was only one CCTV in the entire area which is marked by using green ink and the same was installed at the outer wall of the Female Ward and Procedure Room.

251. During his cross examination he stated that there were five doors at the Eastern side of the said Seminar Room and three doors at the Western side and that there was one Sleep Laboratory at the North East corner of the Eastern side corridor and at the Southern side of the Sleep Room there was Resident Doctors' room and there was Teachers' Corner at the south and that the said Teachers' Corner could be accessed through the Sleep Room by crossing the glass door.

252. It was also his version that at the Eastern side of the Teachers' Corner there were rooms of teachers, faculty members etc.

253. He deposed that by coming out from lift no 7 and 8 the TB Center Nursing Station can be accessed by taking left and from the said Nursing Station the Eastern side corridor of the Seminar Room can be accessed.

254. He also deposed that the staff members of hospital can use the staircase situated at the Eastern side of the Nursing Station of TB Centre.

255. We came to know that the corridor at the Eastern side of Seminar Room could be accessed by taking right turn from the said staircase but the said staircase was for exclusive use of the staff members.

256. The said witness also added that there was one corridor at the Western side of the Seminar Room and that by taking right turn from lift no. 7 and 8 the corridor at the Western side of the Seminar Room could be accessed by crossing the Dialysis unit.

257. He also deposed during his cross examination that there was a Male Ward of Pulmonary Medicine at the North-East Corner of third floor and the said Male Ward could be accessed by taking the route already shown from lift no. 2-6 without crossing or without touching the Nursing Station and the same was only for the outsiders.

258. According to him, as per the sketch map, the distance between lift no. 2-6 to the department of Pulmonary Medicine (Male Ward) was 54 meter.

259. He deposed that he had mentioned existence of three curtains at the left side of the entry gate of the Seminar Room and he denied the existence of any removable curtain in front of the dais of the said Seminar Room.

260. He also mentioned that the said dais in the Seminar Room was at a distance of 20 meters from the opening door.

261. Prosecution side's next witness was Constable Chandan Bhowmik (P.W-20) who was posted at 4<sup>th</sup> Battalion, Kolkata Police.

262. From his evidence it came out that the accused Sanjay Roy used to stay at the barrack of 4<sup>th</sup> battalion at Salt lake and that he was a Civic Volunteer.

263. It was his evidence that the said barrack was for the armed Kolkata police.

264. He stated that on 05.08.2024 he went on duty at Salua, Paschim Medinipur and Sanjay Roy was in the team and they came back on 07.08.2024.

265. As per his evidence, ASI Anup Dutta was the superior of the battalion and on that date at around 10.30 pm the said ASI had instructed him to leave Sanjay Roy to ASI Samar Babu at R.G. Kar Police Out Post and he had complied the same and dropped the accused Sanjay Roy there in his bike.

266. During cross examination he stated that it took about 20/25 minutes to reach to RG Kar Hospital in bike from the battalion if there was no traffic congestion.

267. The Autopsy Surgeon Dr. Apurba Biswas was examined by the prosecution as **P.W-21**.

268. According to him, on 09.08.2024, he had conducted post mortem over the dead body of victim, which was identified by N. Jadab, ASI of Tala PS in connection with Tala PS UD case No. 861 dated 09.08.2024, Tala PS inquest No. 1139 of 2024.

269. As per his evidence, a team was constituted consisting of himself, Dr. Rina Das and Dr. Moly Banerjee and that he and Dr. Rina Das were appointed by the MSVP R.G.Kar Medical College & Hospital and Dr. Moly Banerjee was appointed by the Director of Medical Education, WB as she was posted at NRS Medical College and Hospital as Assistant Professor.

270. He stated that the dead body was arrived at the morgue at 05.10 pm and as the said time crossed the specific time mentioned in the SOP and the Memorandum of Government of West Bengal vide No. HF/SPSRC/160/2015 dated 03.01.2020, one of the team members, Dr. Rina Das had asked for specific police order and accordingly, the same was forwarded to Tala PS for necessary order and they have received the order from Tala PS and the said order was proved as Ext-P-102(21).

271. According to him, as per the Memorandum of Government of India dated 15.11.2021 any Post Mortem conducting after sunset must be videographed to rule out any suspicion and same would be preserved for future reference and the said circular was forwarded by the Govt. West Bengal vide Memo No. M/285(4) dated 23.12.2021 and the same was the last circular in this regard.

272. The said witness proved the representation duly signed by the father of the victim, neighbours of the victim namely Sanjib Mukherjee and Manas Kumar Deb and the Resident doctors and that the same was forwarded to DC



(north) by the Principal, RG Kar Medical College and Hospital and the same was handed over to police by the PW-21 after conducting the post-mortem. He had proved his signatures in the said memorandum.

273. According to him, Manas Kumar Deb attended on behalf of the father of the victim during the post mortem and that the junior doctors namely Dr. Titas Paul, Dr. Nirmita Saha, Dr. Riya Bera, Dr. Rama Bera, Dr. Moutrisha Ghorai were also present at the time of post mortem.

274. The witness added that the said procedure of post mortem was videographed by Shekhar Roy and that it was conducted from 06.10 pm to 07.10 pm.

275. As per his evidence, the victim was brought dead to RG Kar Medical College and Hospital at 12.44 pm.

276. He deposed that *Rigor Mortis* was present all over the body, the eyelids were closed, conjunctiva was congested and stuffy and that there was bilateral sub-conjunctival hemorrhage. The corneas were hazy, pupils dilated and fixed bilaterally. The fingertips, nail beds were cyanosed.

277. He stated that the wearing apparel of the victim was one pink colour kurti, one white colour slip, one white colour brassiere, which was displaced sideways exposing both breasts and the lower garments were missing.

278. He had noticed that blood tinged, moist secretion was coming out from introitus and that metal dental brace was present inside mouth of the victim over the teeth.

279. According to him, on external examination of the body of the victim, the team found multiple crescentic abrasions of 0.3 inch X 0.1 inch to 0.2 inch X 0.1 inch over both cheeks, one abrasion of 1 inch x 0.4 inch was found over mid-part of lower lip with underlining bruise, multiple abrasion of 0.2 inch x 0.2 inch were found over inner side of upper and lower lips, one abrasion of 0.3 inch x 0.1 inch was found over left side of bridge of nose, one abrasion of 0.5 inch x 0.3 inch was found over left ala of nose, two abrasions of 0.4 inch x 0.1 inch were found over philtrum and left supra labial area, one abrasion of 1 inch x ½ inch was found over undersurface of right side of jaw between right angle of mandible and chin.

280. The said team had also noticed multiple crescentic abrasion of 0.5 inch x 0.1 inch over left side of anterior surface of neck, one circular intradermal bruise of 2 inch x 2 inch was found over undersurface of right side of jaw and adjacent to right upper neck and the said witness had termed these injuries as *sucking mark/love bite mark*.

281. The said team had also noticed one bruise of ½ inch x ½ inch over mid-part left side of jaw and three crescentic abrasion of 0.3 inch x 0.1 inch over lateral surface of left arm.

282. The said team had also observed that there were one bruise of 2 inch x 2 inch over posterior surface of left shoulder, one abrasion of ½ inch x ½ inch over left knee, one abrasion of 0.4 inch x 0.3 inch behind left lateral malleolus, one bruise of 0.2 inch x 0.2 inch over right side of hymen at 10 O'clock position, one full thickness tear of hymen at 3 O'Clock position with oozing of blood.

283. On dissection of the dead body, the team members have noticed extravasated blood ½ inch x ½ inch under scalp tissue over left side of coronal suture, extravasated blood 1 inch x 1 inch over left posterior parietal areas of scalp tissues, extravasated blood ½ inch x ½ inch diffused under left side temporal areas scalp tissue.

284. It was also the evidence of the said witness as the head of the said team that on dissection of the dead body they have noticed extravasated blood 1.5 inch x 1.5 inch diffused under right temporal areas scalp tissue, extravasated blood 1 inch x 1 inch diffused in muscle of right lateral side of neck, extravasated blood of 0.3 inch x 0.3 inch diffused in muscle of left lateral side of neck, extravasated blood 0.5 inch x 0.5 inch at posterior aspect of right superior cornu of thyroid cartilage, extravasated blood ½ inch x ½ inch over posterior aspect of left superior of cornu of thyroid cartilage.

285. The said team had also noticed on dissection punctate hemorrhagic spots on inner side of epiglottis.

286. It was the opinion that all the said injuries were ante mortem showing evidence of vital reactions.

287. It was noticed during the PM that the arachnoid layer of membrane was congested and veins and venules were engorged.

288. The brain was congested having weight 1199 gram.

289. It was observed that on examination of thorax, the walls, ribs and cartilage were found healthy, pleurae were congested, both lungs were congested and punctate hemorrhagic spots were detected on surface, the pericardium was healthy, heart was congested having weight 212 gm, the vessels were found healthy.

290. It was stated by the said witness that on dissection of abdomen it was noticed that the walls and peritoneum was healthy, on examination of the stomach and its contents it was found that it was congested and it contained 185 grams of partly digested food residue with no peculiar smell, the mouth pharynx and esophagus were found congested, the small intestine and large

intestine were congested and contained feces and gas, the liver was congested having weight 1134 grams, the spleen was healthy having weight 90 grams, the kidneys were congested having weight 82 grams and 88 grams of right and left kidneys respectively, the bladder was healthy.

291. The said witness also deposed that on examination of internal genitalia, the team had noticed white thick viscid liquid inside endocervical canal and the same was collected by swab.

292. It was the specific version that the weight of internal genitalia, more precisely uterus and ovary, was noted as 151 gram.

293. From the evidence we also came to know that on examination of muscles, bones and joints beside the thorax and abdomen the team did not find any injury or fracture and they also did not find any disease or deformity over any of the limb and there was no dislocation of any bones or joints.

294. The said team formed the opinion that the death was due to the effects of manual strangulation associated with smothering and the manner of death was homicidal and they were also of the opinion that there was medical evidence of forceful penetration/insertion in the genitalia of the victim and the same was suggestive of possibility of sexual assault.

295. It was evidence that the viscera, PM blood, a few plucked scalp hairs, nail cuttings and scrapping from both hands, wet vulvar mop, pubic combings were collected, preserved, sealed and packed and handed over to the concerned police personnel. The vaginal swab, two endocervical swab, swab from inner side of lips, swab from all around of both nipples, anal swab were collected, smear was made and the same were preserved, sealed and packed and handed over to the concerned police personnel.

296. The witness proved the post mortem report duly signed by himself, Dr. Rina Das and Dr. Moly Banerjee as Ext-P-105(21).

297. The available wearing apparels of the victim which were noted in the post-mortem report, were also collected and preserved and handed over to police but due to inadvertence it was not noted in the PM report.

298. He had also proved the Form of report for sending to Chemical Examiner, Government of West Bengal [Ext-P-106(21)] which had the lac-seal impression of Mortuary of R.G.Kar Medical College and Hospital, and it was signed by him.

299. He had identified and proved the said materials sent to the Chemical Examiner.

300. It was his evidence that subsequently the CBI authority placed some questioners to him and he had informed them that the PM examination was

conducted at R.G.Kar Medical College Police Morgue under artificial light, which had natural sunlight like illumination.

301. He had also informed the CBI authority that following the written request from one of the members of Autopsy team, Tala PS gave a written requisition for conducting the PM beyond 04.00 pm by mentioning the law and order situation.

302. He also deposed that on 11.09.2024, in compliance with another requisition of CBI authority he had supplied them the SOP of conducting the PM.

303. He also stated that on 20.08.2024 he had issued another letter to the CBI authority when his opinion was sought for regarding the time of death and that he had mentioned that the time of death was at any time within 19 hours prior to the time of conduction of PM examination. He had also mentioned that depending upon the quantum of partly digested food residue, the time of death was within 4 to 5 hours after the time of last meal.

304. He also deposed that on 14.09.2024 he had intimated the CBI authority that the wearing apparels of the victim, which were preserved during autopsy of the dead body were handed over to SI Kousikbrata Majumdar of the SIT formed by Kolkata police, Govt. of West Bengal.

305. According to him, the term *manual strangulation* means throttling and the same was associated with smothering.

306. It was also deposed by him that during PM they found marks of pressure by thumb and finger tips and the same was mentioned in point No. 7 and 8 of external injuries noted in the PM report and the same must be read with internal injuries 5, 6, 7, 8 and 9.

307. From his evidence we came to know that the photographs during the PM were taken in the mobile phone of Dr. Rina Das in proper manner and the same were collected by the CBI in proper manner by maintaining all the protocol.

308. The said photographs were shown to the witness and the witness specifically pointed out the injuries as per the P.M Report and those were marked as Ext- P-118(21) to P-129(21).

309. By showing Ext-P121(21) the witness deposed that it showed the specific injuries noted in point no. 1, 2 and most specifically 7 in the PM report and the same was suggestive of putting pressure by right hand thumb.

310. By showing Ext-P124(21) the witness deposed that it showed violent asphyxial death due to compression effect over neck and that the bleeding found from the eyes and nose was due to that compression and there were no direct internal injuries over the eyes and nose.

**311.** By showing Ext-P125(21) the witness deposed that the injury found in the photograph was detected on dissection and it signified that it was caused by none other than by compression of right hand thumb and it was not visible from outside and the extravasation of blood was synonymous to bruise/contusion.

**312.** By showing Ext-P127(21) the witness deposed that it was the photograph of the specific injury noted on dissection in point nos. 2 and 3 of the PM report and the said particular injury mark signified that it was caused by pushing the head of the deceased repeatedly with force against any background – hard or not so hard.

**313.** As per the evidence, the term “not so hard” meant it might be ground, wooden floor, like bench, chair but not any metal floor or cement floor. As per the opinion of the said expert, it was because if there were any such floor, then there must have been some laceration which was not visible from outside and as such the firm opinion of the expert was that there might be any cushioning effect.

**314.** By showing Ext-P128(21) the witness deposed that the same were the photographs of the specific injury noted on external examination in point no. 15 and 16 of the PM report as well as blood-tinged moist secretion coming out from introitus and it signified insertion of something, which was hard blunt but the surface was smooth with some force for which two injuries occurred. It was the opinion that the penile penetration might also cause the same injuries but no metallic foreign body was inserted.

**315.** The doctor also opined that in case of penile penetration there was possibility of getting the trace of male pubic hair if the said person would not shave his pubic hair.

**316.** The said witness being an expert also opined that in case of penile penetration semen might or might not be found and that when ejaculation was inside the vagina, then only constituent of semen or spermatozoa be found and in case of only penetration without ejaculation, no semen be found. If the person used any condom or like that barrier, no semen be found.

**317.** By showing Ext-P129(21) it was opined that the victim was alive during the act of penetration/insertion as in case of bruise/extravasation of blood, it requires damaged/injured blood vessel with pumping heart.

**318.** By showing Ext-P130(21) the witness deposed that the same showed the external injury noted against point No. 8 of the PM Report and it signified nails of multiple fingers and the same would be possible when a right-handed person grasp the neck of a person with a thumb on the right side and the rest of the fingers on the left side of the deceased.

319. By showing Ext-P131(21) the witness deposed that it showed that the uterus was taken out and endocervical swab was taken and the thick whitish fluid mentioned in column No. 11 of PM report was found.

320. It was evidence that at the time of holding of the PM the samples were taken.

321. The said witness voluntarily opined that all the external injuries and the internal injuries except the injuries noted in point no. 5, 6,7 and 8 of the P.M. Report, were simple in nature and medico-legal classification wise those injuries were defence injuries and it occurred due to the resistance during struggle. He also opined that on dissection injuries mentioned in point no. 5, 6, 7 and 8 of the Post Mortem Report, were grievous in nature, which might endanger the life.

322. The said doctor also opined that most of the defence injuries found over mouth, nose, cheeks and neck are over a localized area, confined to mouth, nose and neck and the type, site, distribution of the injuries indicated that there was involvement of only one person behind this incident.

323. He also said that the team did not find any resistance mark over the rest of the body excluding the injuries over left knee and left ankle.

324. From the evidence we also came to know that on 09.08.2024 at around 11.50 am he along with Dr. Antra Barman and Dr. Rajarshi went to the Seminar Room by the taking the permission from Second Officer of Tala PS Inspector Pallab Biswas and that after taking entry into the Seminar Room he had noticed that one male SI, one female SI, the SI (homicide) Kousikbrata Majumdar along with some police personnel were there.

325. He also deposed that at that time, the then Principal of R.G.Kar medical College, Dr. Sandip Ghosh came to the Seminar Hall and was talking with SI (homicide) Kausikbrata Majumdar and one Sister and that the witness was in the Seminar Room for around 40 minutes.

326. From his evidence it also came out that due to mismatch of one label over the wearing apparels of the victim and pubic hair, the police did not take the sample on 10.08.2024 and it was collected by police on 12.08.2024 as 11.08.2024 was holiday (Sunday). According to him, SI (Homicide) Kausikbrata Majumdar collected the same from him and he had handed over the same by making rectification in the labels of pubic hair and that on his request the wearing apparel were also taken by police.

327. From his evidence it also came out that the samples were kept at the temperature of the Mortuary.

328. During his cross examination he deposed that fixed temperature of the mortuary was 18 degree.



329. It was the opinion during cross examination that it was not possible of fracture of nasal bone in case of any external pressure by hand and that in case of application of force by hand over the nose, there might be possibility of injury of cartilage but the said possibility is rare.

330. The said doctor admitted during cross examination that in case of throttling by using one hand there was possibility of marks of pressure of thumb and finger tips on either side of windpipe.

331. It was also his opinion that the struggle injuries noted in the PM Report were simple in nature and it was not possible of fracture of any ribs or bone for such injury. It was also the opinion of the said doctor that the grievous nature of injury mentioned by him during his evidence could not be the cause of fracture of any underline bone (cervical vertebra).

332. He admitted that in the instant case there was possibility of fracture of hyoid bone but there was no such fracture.

333. The next witness from the prosecution side was SI Kausikbrata Majumdar (P.W-22)

334. According to him, on 09.08.2024 in connection with Tala PS case No. 52 dated 09.08.2024 he along with his team members went to the Chest Medicine Department of R.G. Kar Medical College and Hospital at 3<sup>rd</sup> Floor of Emergency building and also the scene of crime.

335. He also deposed that on 12.08.2024 as per the instruction of Inspector Rupali Mukherjee, of the SIT formed by Kolkata Police, he went to the Police Morgue of R.G. Kar Medical College and Hospital and collected the original post-mortem report, original medical certificate cum death certificate of the victim, original viscera forwarding letter, medico legal exhibits in sealed, packed and labelled condition by putting his signature along with the date, time and mobile number and designation in the relevant register kept at police morgue of RG Kar Medical College and Hospital and he had proved the same as Ext-P109/1(22).

336. He also deposed that there was one overwriting at the said entry of the said register. According to him, the name of the victim and the description of the articles/documents were written by the *Dom* of the police morgue of R.G. Kar Medical College and Hospital. The said *Dom* had handed over the PM report, medical certificate and death certificate of the victim and the viscera forwarding letter in a sealed cover. The witness had requested him to provide the PM report, medical certificate and death certificate of the victim and the viscera forwarding letter by bringing it out from the sealed envelop and accordingly, the said *Dom* had done it and as such, there were some pen through in the said register.

337. During cross examination the witness deposed that he went there on verbal direction of Inspector Rupali Mukherjee.

338. Inspector of Police Chinmoy Banerjee was examined by the prosecution as the **P.W-23**.

339. According to him, on 13.08.2024 in connection with Tala PS case No. 52 dated 09.08.2024 he went to Maniktala Central Blood Bank with accused Sanjay Roy as per the verbal direction of Inspector Rupali Mukherjee, the IO of the case. It came out that at the said blood bank he had submitted a requisition to collect the blood of Sanjay Roy for his DNA profiling on the basis of the order of the Ld. ACJM, Sealdah and he proved the said Blood Sample Authentication Form [*Ext-P-92(17)*].

340. He deposed that blood sample was collected in his presence and the doctor, the witnesses as well as the accused have signed in his presence and thumb impression of both hands of the accused were also taken in his presence.

341. According to him, Inspector Rupali Mukherjee had sent all the sealed exhibits to him at the Maniktala Central Blood Bank in a sealed cardboard box and he had deposited the same to the CFSL and the CFSL authority had received all except the said blood sample of accused by issuing the acknowledgment receipt.

342. According to him, as per protocol, the seal impression of the blood sample collecting authority should be there in the said form at the specified space and also in the envelop where the blood sample was kept. But in the said form dated 13.08.2024 the said seal impression was not affixed and for that reason the CFSL authority did not receive the said blood sample. He had identified the accused in open court.

343. During cross examination he stated that he was verbally instructed by Inspector Rupali Mukherjee to deposit the sealed exhibits to CFSL.

344. SI Subrata Chatterjee of Tala PS was examined as **P.W-24**.

345. According to him, on 09.08.2024 he had joined duty at 3.00 pm and after joining at around 03.15/3.20 pm he had received a call from SI Chinmoy Biswas who was at that time at R.G. Kar Medical College and Hospital and he was informed that an incident of rape and murder of a lady doctor occurred at the said Hospital.

346. According to him, in such cases Police generally starts one UD case at first and if after starting of the UD case any ingredient of cognizable offence was/were found, police generally start a specific case by lodging FIR.

347. As per his evidence, on that date over that incident of unnatural death of the lady doctor, he had started one UD case vide No. 861/2024 dated

09.08.2024 and the Form was filled up after 11.30 pm and the same was proved as Ext-P-132(24).

**348.** According to him over this matter, he went to the Seminar Room situated at 3<sup>rd</sup> floor of Emergency Building R.G. Kar Medical College at 04.24 pm on 09.08.2024 and noticed that the FSL team was collecting samples from the spot.

**349.** As per the evidence, the said samples were kept on a table/bench and he had prepared a seizure list sitting there in presence of two witnesses. The said seizure list was proved [Ext-P40/2(24)].

**350.** He deposed that the seized articles were properly sealed and labelled and kept in the Tala PS Malkhana by making proper entry in the Malkhana register vide MK No. 52 dated 09.08.2024 and the same was proved as [Ext P-133(24)]. He also proved the specimen brass seal impression used at the time of sealing of the seized articles. [Exbt. P-134(24)].

**351.** It came out from his evidence that after coming back to PS, it came to his notice that one written complaint was filed by the father of the victim and on the basis of the said written complaint, a specific case vide Tala PS case No. 52 dated 09.08.2024 was started for offence U/s 64/103 (1) BNS at 11.45 pm. He had proved the Formal FIR [Exbt. P-135(24)] by deposing that the same was duly filled up by him and duly signed by the then OC, Tala PS and the same was noted in the GD book vide GDE no. 577 dated 09.08.2024.

**352.** As per the evidence of the said witness, the death of the victim was declared at around 12.45 pm and the said death certificate was received at the end of the Tala PS at around 02.00 pm.

**353.** He firmly deposed that one UD case number was already kept blank in the register of Tala PS vide No. 861 dated 09.08.2024 and the said number was collected by ASI Debi Prasad Das and when the present PW arrived to RG Kar Hospital, this UD number was provided to him and accordingly, he had entered the said UD case number in the seizure list.

**354.** The witness again deposed very casually that the process of seizure and the starting of UD case was noted in the GD book vide GD No. 576 dated 09.08.2024 and the said entry was done by him after 11.30 pm on 09.08.2024.

**355.** According to him, GD number 542 dated 09.08.2024 of Tala PS was relating to receiving of information of unnatural death of the doctor at the hospital and departure of police team for that purpose.

**356.** He deposed that the entire seizure procedure was videographed by the person from Kolkata police and that subsequently, the said memory cards were received by the CBI under Memo dated 02.09.2024.

357. He admitted that the GD number No. 542 dated 09.08.2024 was in his handwriting and that he made the entries after coming back from the scene of crime. It was his evidence that he was instructed to make the said entry in his handwriting when the time of the GD was 10.10 am and when he was not physically present at Tala PS.

358. During cross examination he deposed that he did not make any GD when he left PS for RG Kar Hospital on 09.08.2024.

359. He denied that Dr. Diyasini Roy and Dr. Antra Burman have signed in some blank papers.

360. The ASI of Police Suman Lama was examined by prosecution as P.W-25. His deposition was that being the Malkhana in charge of Tala PS, he had received the articles and entered in the Malkhana Register.

361. He also deposed that on 12.08.2024 all the said exhibits in connection with this case were sent to Lalbazar and he was physically present at Lalbazar at that time with the then IO SI Subrata Chatterjee and another officer Chinmoy Biswas and that the seized articles were received by ASI Sanjoy Lohar at Lalbazar, WG Cell and that the exhibits were in sealed condition.

362. The said ASI Sanjay Lohar was the next witness from the prosecution side (P.W-26).

363. According to him, on 10.08.2024 he took part in the seizure procedure as a witness at WG Cell, Lalbazar, when one mobile phone of the accused Sanjay Roy along with SIM card and Memory chip were seized by Inspector Rupali Mukherjee. He had proved his signature in the seizure list [Exbt. P-140(26)].

364. He also deposed that some personal property of the accused were also seized by another seizure list and he had proved his signature in the said seizure list as Exbt. P-141(26)

365. He also proved the Malkhana Register of Tala PS.

366. He also deposed that he had received the seized articles in connection with the Tala PS UD case no. 861 dated 09.08.2024.

367. During his cross examination he deposed that at the time of seizure at Lalbazar, some police officers were present.

368. The Nodal Officer from Vodafone, Mr. Sanjay Dutta was examined as the P.W-27.

369. According to him, as per requisition of CBI, he had provided the SDR,CDR in connection with the service connection No. 9051461112, SIM No. 8991301804790404373 and deposed that as per their report, the name of the subscriber was Sanjay Roy, son of Sarjit Roy of 55B, Sambhunath Pandit Street, Kolkata-25 and the system generated copy of the said application

form, CDR, SDR, in respect of the said service connection no. 9051461112, SIM No. 8991301804790404373 was proved as Exbt. P-142(27).

370. According to him, the CDR of the said service connection was sought for by the CBI for the period from 08.08.2024 to 10.08.2024.

371. According to him, in the said CDR the first column was regarding the phone number of the subscriber which was shown as “Target/A Party Number” and the second column of the CDR showed the call type (incoming/outgoing). He also deposed that the Column No. 4 of the CDR showed the number with whom the conversation was made which was denoted as “B Party Number”. According to him, column no. 7 of CDR refers to call date and column no. 8 denoted the call initiating time and column no. 9 showed the call duration in second. It also came out from the said evidence that Column no.10 and 12 of the CDR showed the tower location wherein the call was initiated and where the call ended respectively. The column no.15 of CDR referred to service type-whether it was voice call or SMS.

372. According to his evidence, the tower location as noted in column no. 10 and 12 of the CDR showed the active connection within a radius of 500 meter to 1 km in the Metropolitan areas from the location of tower.

373. During his evidence, the Ld. PP CBI attracted the attention of the witness to a particular entry in the CDR in page No. 7 in third row and the witness replied that as per the said particular entry, there was an incoming SMS from mobile No. 7044042078 at 2.31.21 hours and at that time the location of Party A was at SSKM II Nursing college building 244 AJC Bose Road, Lala Lalpat Roy Sarani Kolkata-700020 and the said entry was marked as Exbt. P-142/1(27).

374. The Ld. PP CBI attracted the attention of the witness to another particular entry in the CDR in page No. 7 in fourth row and the witness replied that as per the said particular entry, there was an incoming SMS from a service number of SBI (VM-ATM SBI) at 4.38.32 hours and the tower location of the said handset was changed. It was at 123 Bidhan Sarani, Kolkata-4.

375. The witness deposed that Column 16 of CDR referred to the IMEI of the mobile handset of the Party A. [Exbt. P-142/2(27)]. His version was that as per the CDR IMEI number of Party A is 864712051844300 and the said IMEI number of the mobile handset used by Party A with the connection number (already mentioned above), was automatically detected by the server.

376. From his evidence it also came out that the IMEI number consisted of 15 digits but when the same is generated in the system of the Service Provider, the first 14 digits remained the same but the last digit (which is

called as *check digit*) is converted to zero in every cases, which could not be changed manually.

377. During cross examination, he denied the fact of preparation of the CDR manually.

378. Prosecution had examined the Sergeant of Kolkata Traffic Police, Sourav Paul as **P.W-28**. The said witness had proved the CCTV footages of some traffic points.

379. The Assistant Director and Scientist-C, CFSL (L Nato Singh) was examined as **P.W-29**.

380. According to his evidence, he had examined some seized articles at CFSL Kolkata.

381. He had received one VIVO mobile phone along with one Jio SIM card which were marked as MBQ1 and SCQ1 respectively but the MBQ1 was found to be protected with biometric finger print security and as such, the data from the said mobile phone (MBQ1) could not be extracted with the tools available at the laboratory of CFSL, Kolkata and he had mentioned it in Point no. 6 of page no. 4 of his report. His evidence was that he had examined the SIM card (SCQ1) and data from the said SIM card was retrieved and the same was stored in a pen drive.

382. As per the evidence, he had examined another mobile phone which was one old used Navy-blue colour Redmi mobile having IMEI numbers 864712051844293 and 864712051844301 fitted with one Vodafone SIM card and the same were marked as MBQ2 and SCQ2.

383. He deposed that data was retrieved from MBQ2 integrated with SCQ2 and the same were analyzed and the data retrieved from MBQ2 and SCQ2 were also kept in the same pen drive.

384. According to him, he had examined one blue and black colour bluetooth ear phone of LUMA and the same was marked as EPQ1 and the MAC of the said blue tooth earphone was also noted in the report and that data was retrieved from the said Bluetooth earphone (EPQ1) and the extracted generic device name and MAC address of EPQ1 was stored in the PDF file labelled as annexure EPQ1 /RD. he made a combine report of MBQ2 and EPQ1 as those were related to each other.

385. According to him, in page no. 4 (point no. 5) of his report he had mentioned the footprint data concerning connectivity and pairing between MBQ2 and EPQ1.

386. It was his evidence that at the time of examination of EPQ-1 he had found out the identity of the said device including its MAC ID and the generic device name was extracted, and the same data were found in MBQ2.



387. His specific observation was that during examination he found only one connectivity between MBQ2 and EPQ1 and that the EPQ1 and MBQ2 were verified to each other which implied that both the devices were paired with each other.

388. He, being an expert, opined that if the mobile phone and the blue tooth earphone device be kept in auto connectivity mode, there was no need of any further permission for connectivity.

389. He stated that all the data retrieved from SCQ1, MBQ2, SCQ2, EPQ1 were stored in a pen drive and were demarcated as Annexure SCQ1, MBQ2, MBQ2RD and EPQ1 RD and the pen drive was labelled as FED-49-2024-PD and the hash value was also mentioned and he had proved and identified the said pen-drive. He had proved his report as [*Exbt. P-150(29)*].

390. It was the evidence of the said PW that on 25.08.2024 he had submitted another report in connection with the examination of one DVR make *Dahua*, model no. DH-XVR4116HS, serial No. 3JO289FTAPCFB29 along with adopter in sealed packet and the same was demarcated as DVRQ1. He had also submitted the report in connection with examination of one 4 TB internal hard disc make *Toshiba* consisting of CCTV footage of RG Kar Medical College and Hospital and the same was demarcated as HDQ1.

391. According to him, on 25.08.2024 he had submitted report in connection with the examination of another DVR make *Dahua*, model no. DHI-XVR5208A-S2, serial No. 4E060CBAAZD90F4 along with adopter in sealed packet and the same was demarcated as DVRQ2 and that he had also submitted the report in connection with examination of another 4 TB internal hard disc make *Toshiba* consisting of CCTV footage of RG Kar Medical College and Hospital and the same was demarcated as HDQ2.

392. As per the evidence, on 25.08.2024 he had submitted report in connection with the examination of the other DVR make *Dahua*, model no. DH-XVR4116HS, serial No. 3J01CAEPAZ2EE3D along with adopter in sealed packet and the same was demarcated as DVRQ3 and that he had also submitted the report in connection with examination of one 2 TB internal hard disc make *Toshiba* consisting of CCTV footage of RG Kar Medical College and Hospital and the same was demarcated as HDQ3.

393. His evidence was that on 25.08.2024 he had submitted report in connection with the examination of another DVR make *Dahua*, model no. DH-XVR4B16-1, serial No. 7M01CFBPCABE519 along with adopter in sealed packet and the same was demarcated as DVRQ4 and that he had also submitted the report in connection with examination of one 4 TB internal

hard disc make *Toshiba* consisting of CCTV footage of RG Kar Medical College and Hospital and the same was demarcated as HDQ4.

394. He deposed that the HDQ1 to HDQ4 have been forensically cloned using forensic Falcon Duplicator 3.2u3v and the audit log were given in PDF file labelled annexure HDQ1-AL to annexure HDQ4 -AL.

395. As pr his version, the BIOS time stamp of exhibit DVRQ1 to DVRQ4 were also given in PDF file labelled annexure DVRQ1 TS to annexure DVRQ4-TS.

396. He had analyzed the data from exhibit HDQ1 and 16 accessible channels of CCTV footages were found intact and the footage available in respect of time stamp between 06.08.2024, 08.08.2024 and 09.08.2024 could be extracted and were placed in folder labelled annexure HDQ1.

397. His version was that data in connection with time stamp 07.08.2024 was not found in exhibit HDQ1.

398. He deposed that the data from exhibit HDQ2 was analyzed and 8 accessible channels of CCTV footage were found intact and the footage available in respect of time stamp between 06.08.2024 to 09.08.2024 could be extracted and were placed in folder labelled annexure HDQ2.

399. The said witness deposed that the data from exhibit HDQ3 was analyzed by him and 16 accessible channels of CCTV footages were found intact and the footage available in respect of time stamp between 06.08.2024, 07.08.2024 and 09.08.2024 were extracted and were placed in folder labelled annexure HDQ3.

400. His specific observation as that no data in connection with time stamp 08.08.2024 were found in HDQ3.

401. The said witness also analyzed the data from exhibit HDQ4 using DVRQ4 and 13 accessible channels of CCTV footage were found intact.

402. According to him, the footage available in respect of time stamp between 06.08.2024 to 09.08.2024 was extracted and were placed in folder labelled annexure HDQ4.

403. The said witness also extracted data from exhibit SSDQ1 and the said extracted data were placed in folder labelled annexure SSDQ1. He preserved all the said annexures in one external hard drive labelled as FED-50-2024-EXHB and the hash value was also mentioned there.

404. According to him, he had examined the original DVRs along with the internal hard discs and as he found the default name of the said date and time of the internal hard discs, it implied that there were no modification of data of those internal hard discs. He had explained the term *modification* by saying that it means no change in file property.

405. He specifically stated that in the instant case on examination he did not find any evidence of any change of the file properties of the CCTV footage stored in the said internal hard discs. He had proved his report as Exbt. P-152(29)

406. According to the said witness, he had also examined another DVR of make *Dahua* model DHXVR4116HS, serial No. 3J0289FTA6C167 of capacity 4 TB with adopter, which were demarcated as DVRQ1 and HDQ1 and he had also examined one DVR of make *Dahua* model DHDVR2116HS-L, serial No. 1H01IE64PAEHIR39 of capacity 2 TB with adopter, which were demarcated as DVRQ2 and HDQ2 and the same were received in sealed cloth parcel.

407. It was his evidence that data from HDQ1 and HDQ2 have been forensically cloned and given in PDF file labelled annexure HDQ1-AL and annexure HDQ2 -AL and that the BIOS time stamp of DVRQ1 and DVRQ2 were also given in PDF file labelled annexure DVRQ1-ST and annexure DVRQ2 -ST.

408. He also deposed that the data from HDQ1 was analyzed using DVRQ1 and 16 accessible channels of CCTV footage were found intact and the CCTV footage available in respect of time stamp between 06.08.2024 to 09.08.2024 were extracted from HDQ1 and the same were given in folder labelled annexure HDQ1 and the data from HDQ2 was also analyzed using DVRQ2 and 16 accessible channels of CCTV footage were found intact and the CCTV footage available in respect of time stamp between 06.08.2024 to 09.08.2024 were extracted from HDQ2 and the same were given in folder labelled annexure HDQ2 and he had proved the said DVRs. The certificate U/s 63 of BSA as issued by the said witness, was also proved as Exbt. P-156/1(29).

409. During cross-examination he deposed that for the examination of all the items he had used some specific software and tools. It was also deposed by him that the hard discs contain unlocated space and slack space.

410. It was also mentioned by the said witness that he had examined the time stamps of the CCTV footage.

411. Prosecution had examined ASI Anup Dutta as the **P.W-30**. According to him, the accused, being a Civic Volunteer, was known to him. As per his version, the accused Sanjay Roy was one of the staff of Kolkata Police Welfare and Development Redressal Committee.

412. As per his evidence, from 05.08.2024 to 07.08.2024 he was at Salua, Paschim Medinipur in a training accompanied by Sanjay Roy, Manas Das,

Tarun Barman, Chandan Bhowmick, Asit Hembram and others and that he came back on 08.08.2024.

**413.** H deposed that on 09.08.2024 at around 10.32 pm, he had received a call from ASI Samar Paul of RG Kar police Out Post and he was asked to send Sanjay Roy to the RG Kar Police Out Post as he was found in the CCTV footage in connection with an incident occurred at RG Kar Hospital. As per his evidence, he could not contact with Sanjay Roy over telephone and as such, he had requested constable Chandan Bhowmick to take Sanjay Roy in his bike and to drop him at RG Kar Police Out Post.

**414.** He deposed that at the office of CBI at CGO Complex, he had identified the accused Sanjay Roy in a CCTV footage dated 09.08.2024 at 04.03.31 am to 04.03.49 am and 04.31.40 am to 04.31.54 am and 04.32.25 am to 04.32.30 and he had proved his signature in the document prepared on the basis of this identification as Ext P-167(30).

**415.** Before this court he had identified the said CCTV footage, which was shown to him at the office of CBI and according to him in Channel 8 of folder name HDQ2 regarding time slot 04.00 am to 05.00 am of 09.08.2024 is played bearing file No. XVR\_ch8\_main\_20240809040000\_20240809050001.dav, the accused was found to take entry in the CCTV coverage area with one helmet in his hand and one blue tooth earphone was found hanging from his neck and that the footage of 04.31.40 am, Sanjay Roy was found to come out and was again found to turn around to the direction from where he came and it was found that Sanjay Roy is coming out and the helmet was found in his hand but the said blue tooth earphone was not found hanging from his neck and it appears that he turned to his left.

**416.** During his cross examination he deposed that he was entrusted the duty of looking after the works of the staff members of Kolkata Police Welfare and Development Redressal Committee and he admitted that under his instruction the accused Sanjay Roy used to go NRS Hospital, SSKM, Hospital, RG Kar Hospital to look after the police personnel and their family members for their ailments.

**417.** He denied the fact that he would ask Sanjay Roy to do his personal works too.

**418.** He admitted that Mritunjay Ghosh, Kartick Biswas, Kutubuddin Molla, Sagar Bhattacharyya became ill and they all were admitted at RG Kar Hospital and that they all were police personnel.

**419.** It also came out from his cross examination that he did not entrust any duty to Sanjoy Roy on 08.08.2024 but he and Sourav Bhattacharyya went to

RG Kar Hospital without his order to look after brother of Sourav namely Sagar Bhattacharyya.

**420.** Prosecution had examined ASI Samar Paul as **P.W-31**. According to him, on 08.08.2024 and 09.08.2024 he was posted at R.G.Kar Medical College & Hospital Police OP.

**421.** He stated that on 09.08.2024 after 10.00 am he had received a call from OC, R.G. Kar Out Post and he was asked to go to 3<sup>rd</sup> floor of Emergency Building at Chest department and he went there and had noticed that the body of one woman was lying in the Seminar Hall.

**422.** He stated that at that time, ASI Basudev Kundu and the officers of Tala PS were there outside the said Seminar Hall and at around 11.40 am Principal of R.G. Kar Hospital came to the said spot.

**423.** It was his deposition that on that date at around 09.30 pm he had received a personal call from ASI Anup Kumar Dutta and he had requested him to look into the matter of admission of one patient at RG Kar hospital.

**424.** He deposed that at that time he had noticed that the police officers were checking the CCTV footage of the hospital and one of the Civic Volunteer posted at RG Kar Hospital, namely Dilip Kumar Saha, had identified one person as Sanjay Roy, who was found in the said CCTV footages and it was intimated to OC, R.G. Kar Out Post and that he was instructed by OC, R.G. Kar Out Post to call said Sanjay Roy, who was a Civic volunteer.

**425.** It was his version that Sanjay was known to him as he used to visit RG Kar Hospital frequently with patient and his contact number was with me and accordingly, under instruction of OC, R.G. Kar Out Post, he tried to contact Sanjay Roy two times at around 10.30 pm and 10.31 pm and had asked him to come RG Kar Hospital but he denied.

**426.** He also deposed that as Sanjay used to come to RG Kar Hospital through Anup Dutta, ASI, he had called him with request to instruct Sanjay to come to RG Kar Hospital and left hospital at 11.00 pm and that on the way he had received one call from constable Chandan Bhowmick and Chandan told him that he was at R.G. Kar Hospital with Sanjay Roy and he had asked him to place Sanjay before the OC, R.G. Kar Police Out Post.

**427.** Like the P.W-30, he also identified the CCTV footages and when the same file was played before this court, he had identified the said CCTV footage.

**428.** The said witness also identified one CCTV footage of Traffic Department, Kolkata Police dated 08.08.2024 from 16.07.20 hours to 16.07.25 hours and deposed that it resembled that Sanjay Roy was driving a

police bike with one pillion rider and this footage is Bhupen Bose Avenue and JM Avenue Crossing Rajballav Para (objected to).

**429.** During his cross examination he stated that the DVRs of the CCTVs installed at RG Kar Hospital complex are kept at R.G. Kar Police Outpost with the screen, but he could not say whether any sharing screen was available at the chamber of the MSVP.

**430.** The next witness from the prosecution side was the private Security Guard Jagendra Shaw (P.W-32).

**431.** According to him, from 01.00 pm on 08.08.2024 to 07.00 am on 09.08.2024 he was on duty as Security Guard at R.G. Kar Trauma Centre.

**432.** He also deposed that he knew Sanjay Roy, a Civic Volunteer by profession, who used to visit RG Kar Hospital more or less regularly.

**433.** The said witness had identified the accused in the CCTV footage (Mat Ext LX), which was the CCTV footage of main gate of Trauma Care Centre of RG Kar Hospital and he deposed that Sanjay Roy was found to take entry into the Trauma Centre at 03.34.10 am and he was found to talk with the Civic Volunteer and the police personnel at the Trauma Centre main gate and then he took entry into the Trauma Centre.

**434.** He also deposed that the said Sanjay Roy was again found to come out from the Trauma Centre at 03.36.04 am having the helmet in his hand and the earphone hanging from his neck and he had identified the said accused Sanjay Roy before this court.

**435.** During his cross examination he deposed that the CBI authority did not seize any paper from him to show that he was on duty at R.G. Kar Hospital on that date.

**436.** Prosecution had placed Sourav Bhattacharyya (Ex-Civic Volunteer) as P.W-33.

**437.** According to his evidence, he was employed as Civic Volunteer but he was dismissed by his department.

**438.** According to him, on 08.08.2024 and 09.08.2024 he was in the profession of Civic Volunteer and that at that time, his brother Sagar Bhattacharyya was admitted at R.G. Kar Hospital.

**439.** He had identified the accused Sanjay Roy as he was also a civic volunteer.

**440.** According to him, on 08.08.2024 at around 10.30 pm Sanjay went to RG Kar Hospital with him by availing one bike of Police department and the last four digit of the number of the bike was 5021 and that at around 12.00 night both of them left RG Kar Hospital and went to the red light area of Sova Bazar and consumed alcohol there and then they went to the red light



area of Chetla locality by availing the said bike and that after reaching to Chetla, both of them consumed beer.

441. His version was that he took entry in a room with one prostitute but Sanjay did not take entry in the room of any prostitute and he was consuming beer and that when he came out within 20/25 minutes, he had noticed that till then Sanjay was consuming beer.

442. As per his version, from Chetla both of them proceeded towards RG Kar Hospital in the said departmental bike and Sanjay dropped him at the main gate of Trauma Care Centre of R.G. Kar Hospital and he took entry inside the hospital.

443. The said witness identified him and the accused Sanjay in the CCTV footage (Mat Ext-LX).

444. The said witness also identified him and Sanjay in the CCTV footage of Traffic Department, Kolkata Police dated 08.08.2024 from 16.07.20 hours to 16.07.25 hours.

445. During his cross examination he stated that it was within his knowledge that Sanjay used the said official bike on regular basis.

446. He also deposed that on 08.08.2024 he and Sanjay went to the Bank to deposit the personal cash of ASI Anup Dutta.

447. He also admitted that ASI Anup Dutta gave him Rs. 50,000/- to celebrate the *Annaprashan*(first rice eating ceremony) ceremony of his son.

448. Inspector of Police Subhendu Das was examined in this case as **P.W-34**.

449. As per his evidence, on 25.08.2024 his office got one requisition [*ExtP-17(34)*] from CBI authority by which some documents were sought for and that on the basis of the said requisition he had supplied the relevant documents to the IO, CBI in a sealed cover bearing the signature of DCP (HG) and he had proved the said documents which were the full details of employment of three Civic volunteers including Sanjay Roy.

450. During his cross examination he stated that the civic volunteer can use the official bike only under the direction of any superior officer.

451. SI Samaresh Ghosh, the Malkhana Officer of Detective Department, Kolkata Police was examined as **P.W-35**.

452. According to him, on 19.09.2024 he had handed over the duly certified copy of relevant pages of Malkhana register as requisition made by CBI and he proved the same as *Ext-P-173(35)*. He had also proved the Seizure memo dated 19.09.2024 as *Ext P-174(35)*.

453. During cross examination he deposed that he did not mention any time under his signature in the seizure memo.

454. SI of Tala PS Sourav Kumar Jha was examined as **P.W-36**.

455. According to him, on 09.08.2024 his duty hour was 09.00 am to 03.00 pm and that on that date at 10.00 am he had received a telephone call from R.G. Kar Police Out Post and he was informed that one doctor of the said hospital had committed suicide and then he went to the R.G. Kar Hospital at around 10.25 am by taking the official motor bike of Tala PS and went to the Seminar Hall of Chest Department at 3<sup>rd</sup> floor, where, as per information received by him, was the said place, where the commission of suicide took place.

456. He deposed that he took entry into the said Seminar Hall and cordoned the place where the dead body was lying, by using the chairs of the said Seminar hall and then he had informed the matter to the OC, Tala PS Inspector Abhijit Mondal and asked for force from PS.

457. As per the evidence, the on duty nursing staff were there and he had asked them whether the family of the deceased was informed or not and he was informed that the family members of the deceased were duly informed and they were on the way to the hospital.

458. As per evidence, the said witness have recorded the statements of four doctors who were on night duty on that date and then he had recorded the statements of the Private Security Guards.

459. It came out from his evidence that at around 11.15 am OC, Tala PS came there and afterwards the senior police officials came there and he came out from the Seminar Hall and was managing the law-and-order situation.

460. It was stated by him that one of his colleague officer had prepared one requisition for holding of inquest and he had signed therein and he proved the same a Ext-P-104(21).

461. He also deposed that he was present at the time of search and seizure at the said Seminar Hall, which was conducted by SI Subrata Chatterjee of Tala PS.

462. From his evidence it also came out that the FSL team and other officials of Kolkata police were also there and that the entire procedure of search and seizure was videographed and that in his presence four envelopes were sealed and labelled and that two doctors were there at the time of said search and seizure procedure.

463. He also deposed that the FSL team collected some articles and kept the same on a bench and that all the seized articles were sent to Malkhana of Tala PS in sealed condition and that he was present at that time with SI Subrata Chatterjee.

464. It was his evidence that on 12.08.2024 SI Subrata Chatterjee, the Malkhana officer and himself went to WG Cell at Lalbazar with all the seized articles.

465. He stated that he had sent a mail [Ext P-176(36)] on 09.08.2024 at 2.23 pm from the official mail ID of Tala PS addressed to the Joint CP(Crime) with request to engage one competent person for photography and videography of inquest and post-mortem of the victim.

466. During cross examination he stated that when he went to RG Kar Hospital from PS he did not make any GD but that he had kept a blank entry in the GD book.

467. Dr. Adrash Kumar was examined by the prosecution as the **P.W-37**.

468. According to his evidence, in connection with this case the Director AIIMS, New Delhi had received one requisition from the CBI and he was nominated to act as expert and he had visited the scene of crime at RG Kar Medical College and Hospital being of the members of the team consisting of CPWD officers, officials from CBI and the doctors and police officials. He had proved the sid Inspection Memo dated 14.08.2024.

469. According to his evidence, the said team took the photographs and videos of the said scene of crime and collected several items which were properly mentioned in the Inspection Memo.

470. They have collected the information about the position of dead body and others from the persons present there.

471. From his evidence it also came out that the CBI authority had requested the Director General of Health Services, Govt. of India to constitute a Multi Institutional Medical Board (MIMB) and accordingly, the Board was constituted comprising of himself and 11 other experts from different disciplines of different institutes and he was nominated as the Chairman of that MIMB.

472. He deposed that the first meeting of the Board was held on 04.09.2024 and in the said meeting the DIG, CBI was invited and was requested to provide all the documents to the Board and a brief chronology of the investigation so far conducted by the CBI and thereafter, he had nominated

one Professor of Forensic Medicine from Dr. R.M.L Hospital, New Delhi as the Member Secretary of the MIMB.

473. That the next meeting held on 12.09.2024 and in that meeting all the documents received from CBI were placed to the Board Members. The said meeting was followed by another meeting dated 17.09.2024 on receipt of supplementary questions from the CBI.

474. It was his evidence that in the meeting dated 18.09.2024, all the video recordings and micro SD cards were played in the screen and an interim report was prepared on that date with the recommendation and a request was made to coopt Forensic DNA Expert and Forensic Odontologist in the said team.

475. As per the evidence, the said Board accepted the cause of death mentioned by the Board, which conducted the PM examination and MIMB was also of the opinion that the cause of death was *due to asphyxia as a combined effects of throttling (manual strangulation) and smothering*.

476. According to him, on perusal of PM report and other findings the MIMB came to the conclusion that the deceased would have died between 12.00 midnight to 06.00 am of 09.08.2024.

477. In order to ascertain whether there was any sexual assault on the victim, the Board considered the injury no. 15 and 16 of the PM report and also photographs, videographs etc and they have also considered the column no. 1 of external examination of the dead body as mentioned in the P.M.Report.

478. The said MIMB also considered the external injury no. 9 of the P.M report alongwith the CFSL report about the examination of swab taken from both the nipples and the same showed the presence of saliva belonging to Sanjay Roy.

479. As per his evidence, the MMIB opined on interim basis that the possibility of injuries found over the body of the victim having been inflicted by a single person.

480. His deposition was that on 09.10.2024 two other members have joined in the Board and the final meeting of the Board was held on 17.10.2024 and on that date the final report was prepared by the Board addressing all the queries of CBI and the inputs received from the other members of the Board and the documents and articles perused by the Board and the said reply was with proper reasons behind it.

481. According to him, in the said final report the Board had specifically mentioned the nature of ante mortem injuries on the body of the deceased and possible causes of the said injuries, the injuries over the vaginal part of the deceased and its possible causes, whether the injuries found on the body of the accused during his medico legal examination were due to resistance/struggle by the victim at the time of commission of crime and also the time of the said injuries and that the Board also opined whether the Inquest Report, autopsy report and injuries report were in consistent with each other.

482. According to him, the Board also opined about the reasons for non-presence of semen in the vaginal swab/smear when there is medical evidence of forceful insertion/penetration in the genitalia of the victim.

483. According to him, on examination of the photograph marked as IMG\_20240809\_182200.jpg as the deceased was having braces in the mouth and was wearing spectacles, the injuries in her mouth, lips and over the facial region appeared to have been accentuated because of their presence.

484. The Final Report was proved as Exbt. P-178(37).

485. During cross examination the said witness, being an expert of the field opined that in case of throttling there was no scope of fracture of any ribs.

486. He also opined that in case of X-ray of any dead body, usually no hairline fracture of ribs can be detected.

487. He denied the defence suggestion that in case of rigormotis blood comes out from various parts of body like nose, mouth, eyes but he admitted that in case of putting of excessive pressure over neck and throat blood comes out from nostril, mouth, eyes.

488. During cross examination a specific question was put to the witness in the manner *“is it true that in case of homicidal smothering of adult, it is difficult unless they are given drugs or drinks or overpowered by number of persons?”*

489. The reply of the witness was :- *“It is not necessary always that the single person cannot do homicidal smothering as there are many factors which come into picture like suddenness of attack, disparity between the victim and the accused in respect of their physical condition.”*

490. It was the specific opinion on this point that if the person is in sleeping stage, in that case also there is possibility of homicidal smothering by a single person.

491. It was his opinion that by examination of blood, the presence of any drugs or narcotic substance or intoxicants can be detected and for detection of the same preservation of intestine is not required.

492. He denied that there is need of using any ultra violet rays for collection of the swabs including the nipple swab and that the said ultraviolet rays for collection of the nipple swab can only be used if the victim be alive and that to coming to hospital at the early stage.

493. During cross examination he again opined that the injuries noticed by the Board were all ante mortem in nature and obviously, the Board had ruled out any incident of post mortem sexual assault upon the victim in this particular case.

494. Prosecution had examined ASI Sanjay Roy as the **P.W-38**.

495. According to him, he was posted as ASI of police at the Welfare Cell of Kolkata Police, 4<sup>th</sup> Battalion and his duty was to look after their colleagues and their family members about their ailments and treatment at government hospital and that he was entrusted with the said job since 2018.

496. From his evidence it came out that in the year 2020 Welfare Board was formed and a committee of 7 persons was formed at the 4<sup>th</sup> Battalion and that he and ASI Anup Dutta were the members of the said committee.

497. From his evidence we came to know that the accused Sanjay Roy was in 4<sup>th</sup> Battalion as Civic volunteer and ASI Anup Dutta entrusted him to look after the patients of police department at various hospitals though he was not a member of the Central Committee of the Welfare Board formed for the 4<sup>th</sup> Battalion and that in the month of August, 2024 Sanjay Roy used to stay at Barrack no. B14K of 4<sup>th</sup> Battalion and that the said accused would use the official bike no. WB01-AE-5021, which was officially allotted for the Welfare Cell, under the direction of ASI Anup Dutta.

498. During cross examination he stated that he was attached to Welfare Cell since 2018.

499. He also stated that as per rule, the Civic Volunteers are not entitled to stay at the Barrack and to use the official bike of the department.

500. He also stated that the present accused Sanjay Roy used to occupy Barrack under the instruction/permission of ASI Anup Dutta.

501. Prosecution had placed Mr. Sanat Kumar Saha (**P.W-39**), who was the Senior Scientific Officer at Mobile Forensic Unit, Kolkata Police at Lalbazar.



502. According to him, on 09.08.2024, he had received a verbal instruction of Additional Director, SFSL and he was directed to move to RG Kar Hospital in connection with an incident of death and accordingly he alongwith Gautam Kumar Bose(Scientific Assistant, SFSL), Saurav Mallick (Civic Volunteer), Sourajit Das (Civic Volunteer) went to the R.G Kar hospital and reached there at around 01.00pm and they were taken to the Seminar Room situated at 3<sup>rd</sup> floor.

503. As per his evidence, after reaching there, he had noticed that good number of police personnel were there.

504. He stated that after taking entry into the said Seminar Hall they noticed that a body was lying on the dais, which was covered with green colour bed cover but the face was visible.

505. The said witness had noticed a good number of injury marks over the face of the said dead body and he had also noticed that there was blood in the eyes and over the lips. It was also noticed by him that there were one long exercise book, one laptop, one spiral binding diary, one mobile phone, one water bottle and one surgical mask towards the head of the body of the victim.

506. According to him, after removing the body by police for post mortem, they have started to collect the evidence and the said long exercise book, laptop, spiral binding diary, mobile phone, water bottle, surgical mask and other articles were collected by them and those were kept over a table.

507. It was also his evidence that after removing of the body they have noticed that the bed cover, over which the victim was lying, contained stains looks like blood and that they have also found one spectacle but one glass was missing there. The said team also found the said missing glass at a place under the body. One female head clutcher on the said bed sheet was also found at the point where they found the stains of blood.

508. As per the evidence, the said team had also found one use and throw pen and bunch of hairs at the shoulder point of the dead body over the said bed sheet.

509. The said team also found one blue tooth head phone under the mattress.

510. One jeans pant and panty at the left side of the dead body in reverse condition was also found.

511. According to the evidence, they have cut a portion of the mattress cover and brought out some synthetic fiber with dark brown stains and some fresh synthetic fiber from other side of the said mattress and kept it on the table.

512. He had proved the Note prepared at the spot and according to him, the said note was prepared by his Assistant Gautam Kumar Bose under his instruction and that the said note do not bear any signature as per the procedure and standard protocol and that the same was handed over to CBI on 28.08.2024.

513. According to him, in item no. 7 about the hair it was specifically written "*few locks of hairs*".

514. According to him, the entire search and seizure procedure was videographed and he had identified the said video, when played during his evidence.

515. During his cross examination he stated that it was not the fact that no Bluetooth earphone was collected.

516. Prosecution had examined Smt. Debalina Sengupta as **P.W-40**, who was posted as Assistant Superintendent (Non-Medical), R.G Kar Medical College and Hospital.

517. According to him, on 16.08.2024 a team of CBI official visited R.G Kar Hospital and at that time she had handed over two DVRs of CCTV including the internal hard discs to the CBI authority.

518. She also deposed that specific portions of the said DVRs were collected in one pen drive by the CBI official and the hash values of the video footages were generated and she had signed therein on 17.08.2024. she also stated that her junior colleague Sucharita Sarkar, who was also the Assistant Superintendent (Non-Medical) of RGKMCH also had signed in the said Memorandum and the hash value generation report.

519. During her cross examination she stated that she did not put her designation seal or time under her signatures and that she did not have any certificate to deal with any computer hardware.

520. Prosecution had produced Mr. Gobinda Phusti as the **P.W-41**.

521. According to the said witness, he used to work under *Viewcom Technologies Pvt. Ltd* and the said concern was entrusted for annual maintenance of 80 numbers of CCTVs installed at various places of R.G. Kar Medical College & Hospital.

522. He deposed in the fashion that on 09.08.2024 he went to the said hospital to get the backups of MBBS examination and that on that date, the then Principal of R.G Kar Hospital namely Dr. Sandip Ghosh had instructed him to go 3<sup>rd</sup> floor of Emergency Building and to see how many CCTVs were installed there and he also instructed him to keep the footages of the said CCTVs separately and that accordingly he went to the 3<sup>rd</sup> floor with Dr. Debasish Som.

523. He stated that he had noticed that only one camera was there in the entire 3<sup>rd</sup> floor (Chest department).

524. From his evidence we came to know that the DVRs were installed in the R.G Kar Hospital Police Out Post but parallel connection were there in the chambers of Principal and MSVP.

525. His evidence ran in the tune that he went to the chamber of MSVP and collected the footages of the said camera installed at the 3<sup>rd</sup> floor of Emergency building (Chest Department) for the period 10.00 pm on 08.08.2024 to 10.00 am on 09.08.2024 and that Dr. Debasish Som handed over one pen drive to him and he had stored the said footages of the particular time span, in the said pen drive. He also deposed that he had stored the backups of the MBBS examination in another pen drive sitting at the chamber of the MSVP. His evidence was that under the instruction of Dr. Debasish Som the said pen drive was handed over to one junior doctor, but he could not say the name of the said doctor.

526. From his evidence we came to know that on 09.08.2024 he went to the RG Kar Hospital Police Out Post and there he was asked to show the previous recordings of the cameras installed at various floors of Emergency Building and at that time, some police officials from Lalbazar were also present at the said Out Post.

527. He also deposed that on 12.08.2024 the Kolkata police officials had seized four hard discs from him and one seizure Memo was prepared and I have signed therein and he had proved his signatures in the seizure Memo dated 12.08.2024 as Exbt. P-187(41)

528. The said witness also proved the certificates issued by him u/s 63 BSA with the hash value generation report and the said Certificates were proved as Exbt.P-188(41) collectively.

529. From his evidence it also came out that on 16.08.2024 CBI official had asked him to go to the Police Out Post of RG Kar Hospital and they have seized two DVRs with internal hard discs from the said police Out Post and

one seizure Memo was prepared and he had signed therein. He had proved his signatures in the seizure list and the memorandum as Exbt. P-186/1(41) & Exbt. P-184/2(41) respectively.

530. According to him, on 18.08.2024 he was again asked by the CBI to arrive at Police Out Post and at that time, in his presence four DVRs were seized by the CBI and he had proved his signature in the said memorandum as Ext-P-189(41).

531. During his cross-examination he deposed that the said DVRs were standalone machine and he denied that the hash values were generated manually.

532. The next witness from the prosecution side was Puran Kumar, who was attached to SC-I, Branch, CBI, New Delhi, camping at Kolkata (**P.W-42**).

533. According to him, on 17.08.2024, he had assisted DSP Shadng in resealing of 12 items with CBI seal, which were received from Kolkata police under the seal of Kolkata Police and that the said process of resealing was done in presence of independent witnesses and memorandum was prepared and he put his signature in the said memorandum and he had proved it as Ext-P190(42).

534. He also deposed that on the same date (17.08.2024) he had handed over two number of parcels to the CFSL, Kolkata containing the EDTA vial and he had proved the said documents as Exbt. P-192(42), Exbt. P-189/1(42) and Exbt. P-193(42)

535. No such relevant question were put to the witness during his cross examination.

536. The next witness from the prosecution side was Mr. Suraj Bhan (**P.W-43**).

537. As per his evidence, on 26.08.2024 he was attached to SC-I, Branch, CBI, New Delhi, camping at Kolkata and that on that date, he had handed over two sealed cloth packets to CFSL, Kolkata and he proved the acknowledgment receipt as Exbt. P-194(43).

538. Prosecution had placed Dr. Rina Das, Associate Professor of FMT, RG Kar Medical College and Hospital as the **P.W-44**.

539. As per the evidence of the said doctor, on 09.08.2024 she was one of the team members which conducted the autopsy of the dead body of the victim of this case. According to her, they were three members in the team

consisting of Dr. Apurba Biswas, Professor, department of FMT, RG Kar Medical College, Dr. Molly Banerjee, Assistant Professor, department of FMT, NRSMCH and herself.

540. She deposed that the entire post mortem procedure was videographed and that during the post mortem procedure, she took some snaps of the said post mortem in her personal mobile phone.

541. From her evidence we also came to know that the said victim was an on duty doctor (PGT) of R.G.Kar Hospital and as her death took place while she was on duty in the hospital, the said PW thought that it would be considered as custodial death as the said deceased doctor was under the custody of head of the Institute of R. G Kar Medical College and Hospital and as such, she took the snaps.

542. According to her evidence, after taking the videograph of the post mortem procedure, the said Memory Card was kept in the custody of Dr. Apurba Biswas, the Chairman of the team and subsequently, the same was handed over to Kolkata Police in a sealed envelope and Dr. Apurba Biswas had signed in the label of the said envelop but she did not sign anywhere in the said envelop and that she was not present at the time of said handing over of the memory card.

543. It was her evidence that afterwards, in her presence the CBI authority had placed the said sealed envelope before her and she had identified the signature of Dr. Apurba Biswas and the seal was opened in her presence and the said content of the said memory card was shown to her and that she admitted to the CBI authority that it was the said Memory Card containing the videography of entire post mortem procedure of the victim and in that regard, one memorandum was prepared and she, Dr. Moly Banerjee along with the officials of CBI and one independent person have signed in the said Memorandum.

544. It was her evidence that the expert from the CBI team had extracted the hash value of the said memory card and it was noted in the said memorandum. The said memorandum was proved as Exbt. P-195(44). She had also proved her signatures in the said memorandum dated 18.08.2024 as Exbt. P-195/1(44).

545. It was he specific evidence that she had stored the said still photographs in one pen drive by extracting the same from her mobile phone and that she had handed over the said pen drive to the CBI authority and in that regard she had issued proper certificate U/s 63 BSA along with the Hash

Value generation report of the said pen drive and she had proved the said certificate as Exbt. P-197(44).

546. The said PW had proved the said 13 snaps taken by her.

547. From her evidence it also came out that as it was already crossed 04.00 pm when they got ready for postmortem, she made an endorsement that specific police order is required for performing the post mortem after 04.00 pm as per order no. HFW/38099/57/2021-DIR-MES.

548. She had proved her signature in the said Post Mortem Report.

549. During her cross examination she stated that her signature in annexure A of the certificate under section 63 BSA, does not bear any date.

550. It was also stated by her that her personal mobile phone was not seized.

551. In reply to a specific question put to her during the cross examination, she stated that it was not always necessary to climb over the chest of the victim for the incident of manual strangulation associated with smothering as the team found in this case and in that case the chance of fracture of any ribs is remote.

552. The SI of Police, Detective Department, Kolkata Police, Prithwiraj Mukhopadhyay was examined as the **P.W-45**.

553. According to him, on 10.08.2024 the accused Sanjay Roy was arrested by Kolkata police and under the instruction of Additional OC, WG Cell, Rupali Mukherjee, he had prepared one personal property list of the said arrested person and he had proved it as Exbt. P-141/1(45)].

554. Dr. Braja Kishore Mahapatra, Deputy Director, Biology, CFSL, New Delhi was examined by the Prosecution as **P.W-46**.

555. As per his evidence, in response to letter dated 13.08.2024 received from SP, CBI, SC-I, New Delhi, he along with four other experts from CFSL, Delhi reached at R.G Kar Medical College and Hospital on 14.08.2024. They were accompanied by persons from CBI, CPWD and Kolkata Police.

556. They have inspected all the relevant areas including the corridor, Nursing Station, Seminar Hall, the room of the HOD and examined forensically.

557. According to him, Dr. Sumit Roy Tapadar of R.G Kar Hospital conveyed that the dead body of the victim was lying on a wooden stage available in the Seminar Hall of Respiratory Care Unit of RG Kar Hospital.



558. It was his evidence that upon detailed examination, the material like long hairs were found over the table, long hairs were found in the mattress, one medicine wrapper was found, one mobile back cover was found and two suspected stains were found over the mattress and the said materials were collected and handed over to the IO of the CBI.

559. He deposed that one Inspection cum Seizure Memo was prepared and he had signed therein. He had proved his signature as Exbt. P-43/5(46).

560. According to him, the said team had prepared one detailed Crime Scene Examination Report and the same was signed by him, Mithilesh Jha, Anuj Kumar Bhati, P. K Gottam and A.D Tiwari and the said report was proved as Exbt. P-201(46).

561. During his cross examination he deposed that if anyone touch any object, his DNA can be extracted from the said object, only if sufficient biological cells are available over the said objects.

562. He deposed that in the said Report it was noted that except the mattress located on the wooden stage, no biological stains could be detected on the floor surface in the said seminar room and that the evidences of possible struggle between the victim and assailant were found missing in the area of occurrence.

563. He also deposed that inside the Seminar Hall opposite to the entry door, there were four doors which stated to be remained closed, the IO was suggested to take note of it for the purpose of investigation.

564. He deposed that opposite to the said Seminar Hall they have noticed that some walls were demolished and that the team conducted forensic search in the said demolished area but they did not find any forensic clue material.

565. Mr. P. Paul Ramesh, Deputy Director, Physics, CFSL, Kolkata, was examined as the **P.W-47**.

566. According to him, on 20.08.2024 he had received five sealed paper packets from the Biology Division, CFSL, Kolkata along with a copy of Memo No. 47/WG Cell, DD dated 13.08.2024 in connection with Tala PS case No. 52 of 2024 dated 09.08.2024 and the forwarding authority was DCP, Special, Detective Department, Kolkata Police.

567. As per the said evidence, the said packets consisted of one black colour spectacles having one glass and one glass missing, one transparent power glass of the spectacles, one blue colour jeans, one brown colour panty, one white colour bra, one white colour ganji, one red colour kurti and one

blue jeans and the same were marked by him as Exbt. C, D, E1, E2, W1, W2, W3, and X respectively and he had examined the same thoroughly, physically and microscopically.

568. As per his opinion, the Exbt D was the part of Exbt. C and they were separated due to application of force.

569. It was also his opinion that the breaking of stitching threads at the elastic joint, breaking of stitching threads between the cloth and elastic in Exbt. E-2 was due to dragging it down forcefully.

570. It was also his opinion that both sides of waist portion of the *kurti* (Exbt. W3) were found to be torn and it could be due to sudden pulling up.

571. The report was proved as Exbt. P-202(47). He had proved and identified all the said articles examined by him.

572. He opined during cross examination that due to use threads may come out from the undergarment.

573. The Constable of Detective Department, Scientific Wing, Photography section Kolkata Police, Mr. Sandip Sarkar was examined as **P.W-48**.

574. According to him, on 09.08.2024 on the basis of verbal direction of the Additional OC, Scientific Wing, he went to the R.G Kar Hospital and reached there at around 4.30 pm for taking the video and went to the 3<sup>rd</sup> floor of the Emergency Building and took the videograph inside the said Seminar Room about the collection of articles by the FSL team.

575. He stated that the said videography was for 5/6 minutes and that at around 08.00 pm another constable, namely Sk. Sahanawaz from Scientific Wing came there and he started to take the videograph he had handed over the camera with the micro SD card used by him, to Sk. Sahanawaz. He had proved the portion of the entire videography done by him.

576. Inspector Rupali Mukherjee, the Addl. O.C, W.G Cell Kolkata Police, was examined as the **P.W-49**.

577. As per her evidence, on 09.08.2024 at around 05.30 pm she went to RG Kar Medical College and Hospital under the instruction of OC, WG Cell and that on the basis of the direction of her superior, she went to the Tala PS in the intervening night of 09/10.08.2024 and took charge of Tala PS case No. 52 dated 09.08.2024 as the IO being one of the members of the Special Investigation Team (SIT), which was formed under the instruction of Joint CP (Crime) Kolkata Police.

578. She deposed that on 10.08.2024, on the basis of some suspicion and information they have detained one person namely Sanjay Roy and he had confessed his guilt and then he was arrested on 10.08.2024 and his statement was recorded.

579. As per the evidence, on search of the said person, his personal properties were found and one of the SIT members, SI Prithwiraj Mukhopadhyay had prepared a list of the said personal properties of the of the detained person.

580. She also deposed that at the time of his search, his mobile phone was found which was in switch off condition and the same was seized by her [Exbt. P-140/1(49)] and the said person was arrested by her at the office room of W.G Cell at Lalbazar by preparing the proper Memo of Arrest and Inspection Memo [Exbt. P-140/1(49)] and the arrested accused was sent to SSKM Hospital for his medical examination and that on 10.08.2024 the said accused was produced before the court of Ld. ACJM, Sealdah and the said accused was taken into PC.

581. According to him, in the intervening night of 10/11.08.2024 she again visited R.G Kar Hospital and in presence of one technical person she made the copy of the CCTV footage of two cameras situated at the ground floor and 3<sup>rd</sup> floor of the Emergency Building in four pen drives.

582. They have made the prayer to the Ld. Court for retention of the seized mobile of the accused and the said four pen drives and the same were kept at the Malkhana of Detective Department, Kolkata Police for its safe custody.

583. She deposed that during the medico legal examination of the accused, some materials were preserved and the OC, W.G Cell had collected it and the same were handed over to her in sealed condition in the intervening night of 10/11.08.2024.

584. She also recorded the statements of some witnesses of R.G Kar Hospital.

585. From the evidence it came out that on 11.08.2024 she again went to R.G Kar Hospital with the photographer and plan maker from the Scientific Wing of DD Lalbazar and took the snaps of the place of occurrence and the sketch map was also prepared.

586. That on 12.08.2024 she made two prayers before Ld. ACJM, Sealdah for extraction of data of the seized mobile and for collection of blood samples of the accused for DNA profiling and for tagging of Tala PS UD case No. 861

dated 09.08.2024 with the main case (Tala PS case No. 52 dated 09.08.2024) and for getting the original Inquest Report.

587. According to her, on 12.08.2024 one of the team members of SIT SI Prithwiraj Mukherjee had seized the footage of three CCTV cameras installed at ceiling of ground floor of Emergency building facing towards the ramp and iron gate of the entrance, the camera installed at the wall of Emergency Building facing towards the main gate, the camera installed on the wall at the lift corridor of Emergency Building of RG Kar Hospital in six pen drives and the same were seized and sealed by the said officer in presence of the witnesses.

588. She also deposed that on 12.08.2024 another member of the SIT had seized four internal hard disks from the DVRs of the CCTVs, which were kept at the chamber of OC, R.G Kar Medical College and Hospital Police Out Post. On the same date, another member of the SIT SI Kausikbrata Majumdar had collected the PM report, MCDC and the Medico Legal exhibits from the Morgue office of R.G Kar Hospital.

589. It was her evidence that on 12.08.2024, she had recorded a statement of the accused Sanjay Roy and at that time the said accused had disclosed that he could show IO his wearing worn at the time of incident and the footwear used by him. The portion of the said statement of the accused was marked as Exbt. P-214 (49).

590. She deposed that on the basis of the said statement, a team of police officers went to the 4<sup>th</sup> Battalion of Kolkata Police at Salt Lake along with the accused and the accused had shown them the separate room where he used to stay in the barrack, which was under lock and key and the accused had shown the place where he kept the key of the said room and the room was opened.

591. That after taking entry into the said room, the accused had shown his wearing on the date of incident, the key of his bike, his footwear and other articles and the same were seized by her by preparing proper seizure list and the said procedure of seizure was videographed as per the statutory provision and that on that date the said team had also seized one motor bike kept in the compound of 4<sup>th</sup> battalion. The witness proved the seizure lists and the labels.

592. She had proved the micro SD card contained the videography of the entire procedure of search and seizure and that the same was produced before the court of Ld. ACJM and as per the direction of the court it was retained with the IO.

593. The micro SD card showing the seizure procedure of the mobile of the accused, extraction of CCTV footage on 11.08.2024 were also proved.

594. It was also evidence that data was extracted from the mobile of the accused.

595. She had proved the Memorandum of handing over the relevant papers to CBI as per the order of the Hon'ble High Court, Calcutta.

596. During her cross examination she stated that on 09.08.2024 she was at RG Kar Hospital from 05.30 pm to 11.30/12.00 night and that on 10.08.2024 at around 10.00/10.30 am she had received the CD of this case from Tala PS. She also deposed that she had received the seized articles on 12.08.2024 in the evening.

597. It was her evidence during her cross examination that in the intervening night of 09/10.08.2024 at 12.00 night, she made first entry in the CD by noting her appointment as the IO of this case for further investigation.

598. According to her, it took about one hour to reach to 4<sup>th</sup> battalion from Lalbazar in the police vehicle as there was heavy traffic on the road.

599. She deposed that on 09.08.2024 at 05.30 pm when she went to RG Kar Hospital, she had noticed that some persons from Tala PS were there. She could not say the names of all of them but one person in uniform was earlier known to and his name was SI Chinmoy Biswas.

600. She also deposed that on 10.08.2024 at 22.30 hours she went to the R.G Kar Medical College Campus for seizure of CCTV footages but she did not go to the PO or its surroundings at that time and that she left R.G Kar at 02.00 am and the date was 11.08.2024.

601. She deposed that on 11.08.2024 she again visited R.G Kar Medical College and Hospital but the time is not mentioned in the CD and that on that date she had recorded the statements of witnesses namely Swarojit Sikdar, Hiralal Sarkar, Alip Roy, Biswajit Roy, Sk. Iqbal Gir Hossain.

602. She also stated during her cross examination that on 11.08.2024 she again visited the surrounding of the PO for preparing the sketch map by the person from Scientific Wing and also took the entry into the Seminar Room, which was kept under lock and key.

603. It is fact that she could not recollect who had handed over the key to her but she had returned the key in the same process and that afterwards, prior to handing over CD to CBI on 13.08.2024, she did not visit RG Kar Hospital.

**604.** From her evidence we came to know that during her visit to the PO, she had noticed that for taking entry to the Seminar Room by any outsider, the Nursing Station should be crossed.

**605.** It was stated by her that she did not seize any duty roaster of the Nursing Staff for the intervening night of 08.08.2024/09.08.2024 at the Chest Department.

**606.** On 10.08.2024, she had recorded the statement of male attendant Sanjib Rana.

**607.** From her evidence we came to know that the members of the SIT had prepared the list of on duty doctors, nursing staff (male and female) and the attendants and they were examined by the SIT members and not by this witness and the same was available in the CD.

**608.** From her detailed cross-examination it came out that the day on which she had seized the CCTV footage, one Ranjan Paul was present for the maintenance from maintenance firm, who were entrusted to look after the CCTV of RG Kar Hospital. She also stated that she did not mention any time of the footages, the extracts of which were collected by her in respect of the 3<sup>rd</sup> floor of Emergency Building and that she did not hold any investigation whether except she, any other person had procured the extracted CCTV footage prior to her.

**609.** She also stated that she did not examine any person namely Dr. Debasish Som and Rajashree Roy.

**610.** She admitted that she stated to CBI that on 09.08.2024 at around 11.00 pm she was present at the Platinum Jubilee Building of R.G Kar Hospital along with her superior colleague officials of Kolkata police and that on that date at 11.30 pm one person was brought by police and his examination was started and his name was later disclosed to her as Sanjay Roy. She admitted that she had stated to CBI that on checking of the mobile of the said person it was found that the battery was very low and that as she was on her way to Tala PS, she was asked by OC, W.G, Cell to take the mobile phone to Tala PS and to arrange for its charging and she had done it and that she was instructed to go back to R.G Kar Hospital by keeping the mobile at Tala PS for its charging.

**611.** It was her evidence that she stated to the CBI that after sometimes, being instructed by her superior, she went to Lalbazar with the suspect and that in the morning of 10.08.2024 the case diary along with mobile of suspect was received by her from the OC, W.G Cell.



612. It was her voluntary statement that on 10.08.2024 in the morning the mobile of the accused was returned to him at Lalbazar. Afterwards, he was interrogated and when he had confessed his guilt, he was arrested and afterwards, the seizure procedure of mobile was done.

613. She denied the specific suggestion of the defence that the exhibits which she had received from Tala PS were in unsealed condition except 4 items.

614. She stated that on 09.08.2024 at 05.30 pm when she went to the said Seminar Hall, she had noticed that a search and seizure procedure was going on but she was not present there throughout.

615. She denied the fact that the videography of search and seizure was going on under her instruction.

616. It was her reply during cross examination that during her presence at the time of search and seizure, she had noticed that the seized articles were kept in proper packets.

617. She admitted that she did not collect any specimen finger print of accused Sanjay Roy.

618. It was also her reply during cross examination that she did not seize the wallet of the accused but the videography showed that the said wallet of the accused was kept on her table along with the mobile.

619. She stated during cross examination that immediately after arrest of Sanjay Roy his medical examination was done as per procedure at SSKM Hospital and as per the OPD ticket the time was 10.39 am and that afterwards, the medico legal examination of the accused was done after 12.00 noon.

620. She deposed that during investigation she got that this accused Sanjay Roy was attached to Welfare Board of Kolkata Police and that he used to look after the patients related to police department who admitted at hospital.

621. It was also her version that during enquiry she got that on 08/09.08.2024 the relative of one Civic Volunteer was admitted at R.G Kar Hospital for the surgery of said patient but she did not interrogate any such patient or patient party.

622. It was her evidence that during her course of enquiry, she did not get anything about any criminal antecedent of Sanjay Roy at R.G Kar Hospital.

623. Prosecution had examined the IO CBI Sima Pahaja as the P.W-50.

624. According to her, she was entrusted with the investigation of this case on 13.08.2024 and she had proved the FIR drawn by the CBI as Exbt. P-225(50).

625. She deposed that on 13.08.2014 and 14.08.2024 they have collected the documents and records from the local PS and that on 14.08.2024 the team of CBI, CPWD, CFSL and AIIMS, New Delhi had visited the scene of crime (SOC) at RG Kar Medical College and Hospital, which was the Seminar Room situated at the 3<sup>rd</sup> floor of Emergency Building of R.G Kar Hospital and the said SOC was kept under lock and key and it was opened by the IO from Kolkata Police Rupali Mukherjee (PW-49) by arranging the key.

626. That the CBI team met the HOD, Chest Department and the faculty Dr. Sumit Roy Tapadar and that as shown by Dr. Sumit Roy Tapadar, the scene of crime was inspected by the team.

627. That during that inspection, the CFSL experts forensically examined the scene of crime and they captured photo and videos of the scene of crime. The architect of CPWD took measurement of the said scene of crime.

628. According to her evidence, during such inspection, some articles were found, which deemed to be relevant for the purpose of investigation of this case and the CFSL team had collected the same and placed it in sealed cover and handed over to her and that after inspection of the scene of crime, it was locked by CBI and also sealed the same by the CBI.

629. It was also stated by her that they have also received some articles from Kolkata police in sealed packet and those articles along with the articles found by CFSL team during inspection, were handed over to CFSL for its examination on various dates. They have also received the articles related to the accused Sanjay Roy, from Kolkata police alongwith the custody of the accused Sanjay Roy.

630. According to her, they have also procured 40 still photographs of the place of occurrence including the photographs of victim.

631. They have also received the floor plan prepared by Kolkata Police.

632. It was her evidence that they have also seized the DVRs and internal hard disks of the CCTVs installed at R.G Kar Hospital. The DVRs were seized from the R.G Kar Police Out post as those were installed there and that they have procured 51 CCTV footages of Kolkata Traffic Police at different places.

633. It came out that during investigation, the accused Sanjay Roy was identified by some police officer like ASI Anup Dutta, ASI Samar Paul and security guard Jagendir Saha by seeing the CCTV footage.

634. She also stated that during investigation, blood samples of the accused Sanjay Roy was collected by the CBI team for the purpose of DNA profiling and that all the exhibits were sent to CFSL, Kolkata for its forensic examination on various dates.

635. She deposed that she had received the report of DNA profiling from CFSL Kolkata and the toxicology report and that they have also received the details report of regarding the examination of hard discs of the electronic materials like mobile phone, earphone, laptop etc.

636. According to her, at the time of investigation, MIMB was formed and the post mortem videos, inquest videos along with the original report and the photographs were placed to them for examination and the CBI had received the report. She also deposed that the inquest and autopsy videos were also examined by the doctors of AIIMS, Kalyani and they got the report.

637. She stated that during investigation they have collected 13 photographs snapped by Dr. Rina Das during the autopsy of the victim and the medico legal examination report of the accused Sanjay Roy was also received.

638. She also stated that they have collected the list of doctors, nurses or the other staff members of RG Kar Hospital, who were on duty on that fateful night and the said Duty Roster alongwith the seizure memo was proved as Exbt. P-229(50) and Exbt. P-230(50).

639. It was the evidence that the CBI team had examined several witnesses and recorded their statements, collected the cremation certificate of the victim, the report from SFSL, Kolkata, the certified copies of Malkhana register of Tala PS and DD Lalbazar, the supported document regarding employment of Sanjay Roy as the Civic Volunteer, Kolkata Police from the office DCP (HG) Kolkata Police.59. During investigation, we have re-seized the motor bike which was already seized by Kolkata police.

640. She deposed that they have also collected the CDR as well as Customer Application Form of the mobile number of the accused from concerned service provider.

641. It was her conclusion that from the documents and material collected during the investigation, it was prima facie established that this accused was the only person who was involved with the incident of rape and murder of the

victim and accordingly they have filed charge sheet against this accused Sanjay Roy under section 64/66/103(1) BNS.

642. During cross examination she stated that she had interrogated Dr. Debasish Som, Dr. Rajashree Roy and Dr. Sandip Ghosh and recorded their statements and that she did not collect any finger print impression of the accused or did not attempt to get any chance finger print from the seized article, specially the Bluetooth earphone.

643. The said IO also deposed that she personally did not examine any nursing staff, Aaya, or the group D staff of R.G Kar Hospital but that her team members have examined some of them.

644. She deposed during cross examination that they did not cite the names of any such nursing staff/Aaya/Group-D employees in the charge sheet as witness and that though they have examined the person from MDR, TB ward and their statements were recorded, but they were not mentioned as witness in the charge sheet.

645. She stated that she had perused the statement of Gobinda Phusti (PW-41) but even after perusal of his statement she did not take initiative to collect the pen drive from Dr. Rajashree Roy in respect of the CCTV footage of the camera installed at the 3<sup>rd</sup> floor of Emergency Building (Chest Department) for the time span 10.00 pm on 08.08.2024 to 10.00 am on 09.08.2024.

646. She admitted that after seizure of the DVRs of the CCTV footages, the data were extracted and they have perused all the footages of the relevant time span of 08.08.2024/09.08.2024 and that she had perused the CCTV footage of the 3<sup>rd</sup> floor of Chest Department of R.G Kar Hospital for the period around 03.00 am to 04.30 am dated 09.08.2024. she stated that she did not collect any pen drive from Dr. Rajashree Roy even after perusal of statement of Gobinda Phusti (PW-41).

647. In this regard she made the voluntary statement that as the entire DVRs were seized, there was no need to collect the pen drive from Rajashree Roy.

648. She strongly denied the prosecution suggestion that the Seminar Room of R.G Kar Hospital (Chest Department) was not the actual scene of crime or that she did not take any endeavor to locate the actual scene of crime and that she had blindly followed the investigation conducted by the Kolkata police or that this accused was falsely implicated to shield the real culprit behind the incident.

**Examination of the accused u/s 351 BNSS:-**

The accused person was examined u/s 351 BNSS by following the guideline of the Hon'ble High Court Calcutta as passed in CRA 609 of 2012 (CRAN 03 of 2024).

The incriminating materials came out in the evidence of the PWs were placed to the accused in his mother tongue (Bengali) and its exact English translated version was recorded in open court in presence and hearing of the Ld. Counsel for the accused, Ld. PP CBI and the Ld. Counsel for the complainant.

The entire recording is reproduced here :-

**“Q.1.** *I am putting some questions to you, and you may or may not reply. But remember that your reply may be used for or against you. Do you understand?*

**Ans.** Yes.

**Q.2.** *Are you aware about the evidence on record, which were recorded either in your physical presence before this court or when you were produced through VC?*

**Ans.** Yes.

**Q.3.** *From the evidence of PW-34 (Inspector Subhendu Das), it appears that in terms of requisition of CBI he had handed over all the relevant documents regarding your employment as Civic Volunteer and it appears that you were selected as the Civic Volunteer vide order dated 21.12.2018, which was proved as Exbt. P-172 (34). (The document is shown to the witness) What do want to say?*

**Ans.** This is the document of my selection as the civic volunteer.

**Q.4.** *From the documents attached with your appointment it appears that you participated in the Junior Boxing Championship organized by Bhowanipur Boxing Association in the year 2004 and became the runner. Are you a right-handed person? What do want to say?*

**Ans.** I am a right handed person and it is fact that I was the runner up in the said Boxing Championship.

**Q.5** *From the documents attached with your appointment it appears that you have one savings account in the State Bank of India vide account No. 38193528017 at Gokhel Road branch and you receive regular SMS from the bank regarding your transactions or account related issues and this is your salary account. What do want to say?*

**Ans.** Yes. This is my account, and I receive SMS regarding this account.

**Q.6.** *From the evidence of PW-38 (ASI Sanjay Roy), it appears that you were attached to 4<sup>th</sup> Battalion of Kolkata Police as the Civic Volunteer and ASI Anup Dutta (PW-30) entrusted you to look after the patients of police departments at various hospitals though you were not a member of the Central Committee of the Welfare Board formed for the 4<sup>th</sup> Battalion. What do want to say?*

**Ans.** It is true.

**Q.7.** From the evidence of said PW-38 (ASI Sanjay Roy), it also appears that you used to occupy barrack of 4<sup>th</sup> battalion under the instruction/permission of ASI Anup Dutta (PW-30) and that you were allowed to use the officials bike of Kolkata police vide No. WB-01-AE-5021, which was officially allotted for the Welfare Cell, under the permission of ASI Anup Dutta. What do want to say?

**Ans.** It is fact that I used to occupy barrack of 4<sup>th</sup> battalion under the instruction/permission of ASI Anup Dutta vide barrack No. 14. There is some alphabet prefix of the number 14 but exact alphabet I can not recollect at this moment.

I also admit that as a Civic Volunteer I was not entitled to get any official bike of Kolkata Police but ASI Anup Dutta permitted me to use the bike No. WB-01AE/5021. It is fact that the said bike was also used at different times by other police personnel.

**Q.8.** From the evidence of PW-33 (Sourav Bhattacharyya, Ex-Civic Volunteer), it appears that on 08.08.2024 at around 10.30 pm you went to RG Kar Medical College and hospital with the said witness by availing the official motor bike of Kolkata Police vide No. WB01-AE-5021. What do want to say?

**Ans.** On 08.08.2024 after 09.30 pm myself and Sourav were at RG Kar Hospital for the treatment of brother of Sourav and some other patients. Then myself and Sourav went out of RG Kar Hospital in the bike No. WB01-AE-5021 and then again we took entry into the hospital in the same bike after 10.30 pm.

**Q.9.** From the evidence of said PW-33, it appears that at around 12.00 night on that day, which became 09.08.2024, you along with the said PW left RG Kar Hospital and went to the red-light area of Sovabazar and both of you consumed alcohol there. What do want to say?

**Ans.** It is fact that afterwards, myself and Sourav left the hospital in the said bike vide no. No. WB01-AE-5021 and crossed Sovabazar area but we did not consume any alcohol there.

**Q.10.** From the evidence of said PW-33, it appears that from Sovabazar both of you went to the red-light area of Chetla locality by availing the said motor bike of Kolkata Police vide No. WB01-AE-5021 and after reaching there both of you had consumed beer. What do want to say ?

**Ans.** It is fact that on the way we took some magi and went to the red light area of Chetla and we have consumed beer.

**Q.11.** From the evidence of said PW-33, it appears that the said PW went into the room of one prostitute, but you did not take entry into the room of any prostitute of the said area and was consuming beer and when the PW-33 came out within 20/25 minutes, he had noticed that till then you were consuming beer. What do want to say?



**Ans.** It is fact that both of us consumed beer and then Sourav took entry into the room of one prostitute but came out within 2/5 minutes probably due to some disagreement but in the meantime I have completed the consumption of beer.

**Q.12.** From the evidence of said PW-33, it appears that from Chetla both of you proceeded towards RG Kar Hospital in the said official bike of Kolkata Police and you had dropped the PW-33 at the main gate of Trauma Care Centre of RG Kar Hospital and took entry there. What do want to say?

**Ans.** Yes. It is fact but I did not ask him to get down from bike, he voluntarily got down from the bike as he was in a hurry. I have asked him to wait but he did not pay heed to me and went out. Then I again turned my bike to search him out but I could not get any trace of him and I again took entry into the RG Kar Hospital premises and entered the Trauma Care Centre.

**Q.13.** One CCTV footage of RG Kar Hospital was seized by police and the same was proved as Mat Exbt. LX by the prosecution and the same was shown to the PW-33 and during the time slot 3.00 am to 4.00 am dated 09.08.2024 you along with the PW-33 were seen to take entry into the RG Kar Hospital (the said clippings is shown to the accused). What do want to say about this clipping where your presence at RG Kar Hospital is found at 03.00 am on 09.08.2024?

**Ans.** Yes. In this entry myself is found to park the bike and to take entry into the Trauma Care Centre and my exit from the Trauma Care Centre is found at 3.36.15 am on 09.08.2024.

**Q.14.** One CCTV footage of the Traffic Department of Kolkata Police was shown to the PW-33, which was a footage of Rajballavpara and the said footage was dated 08.08.2024 from 16.07.20 hours to 16.07.25 hours and the same shows that you are driving a police bike with the PW-33 as the pillion rider (the said footage, which was proved as Mat Exbt. LV is shown to the accused). What do want to say about this footage?

**Ans.** I admit my presence along with Sourav as the pillion rider in the said CCTV footage.

**Q.15.** From the evidence of the PW-32 (Jogendra Shaw), who was posted as security guard from one private security agency at RG Kar Hospital Trauma Centre, it appears that during the time slot 3.00 am to 4.00 am on 09.08.2024, you were found to take entry into the Trauma Centre at 03.34.10 am and you took entry into the said Trauma Centre with a helmet in your hand and one blue tooth ear-phone was hanging from your neck and this witness had identified you in the CCTV footage, which was proved in this case as Mat Exbt. LX. What do want to say?

**Ans.** It is fact that this is the CCTV footage where I was found to take entry into the Trauma Care Centre through the main gate and I am carrying one helmet

with me and one Bluetooth ear-phone is also hanging from my neck.

**Q.16.** The said witness (PW-32) also stated that you were found to come out from Trauma Centre at 03.36.04 am on 09.08.2024 with the helmet in your hand and the earphone was hanging from your neck. What do want to say?

**Ans.** Yes. It is true.

**Q.17.** The said witness (PW-32) also deposed that you were an well-known face at RG Kar Hospital as you used to visit the said hospital more or less regularly. What do want to say?

**Ans.** I can not say who were the persons to whom I was a known face but I admit that I used to visit RG Kar Hospital to look after the patient from the Welfare Board as and when directed by ASI Anup Dutta.

**Q.18.** From the evidence of PW-31 (ASI Samar Paul), it appears that on 09.08.2024 at 04.03.31 am you were spotted in the CCTV installed at the entry point of Chest Department situated at 3<sup>rd</sup> floor of the Emergency Building and it was deposed by the said witness on perusing the particular CCTV footage, which was marked as Mat Exbt. LVII and from the said footage it appears that you took a right turn from the point where the CCTV was installed and took entry into one corridor and at that time one helmet was in your hand and one ear-phone was hanging from your neck. What do want to say about this particular footage?

**Ans.** Yes. This is me who is found in this particular CCTV footage and my helmet is with me and my Bluetooth earphone is hanging from my neck. It is fact that I was found in this footage to take my right turn and followed a corridor and then it is found that I took entry to somewhere to the left side which is not within the coverage of this CCTV.

**Q.19.** From the evidence of said PW-31 and on perusal of the said CCTV footage (Mat Exbt. LVII) it appears that at 04.31.40 am on 09.08.2024, you were found to come out and again you have turned around to the direction from where you came and subsequently you were again found in the CCTV to come out and at that time the helmet was found in your hand but the said Bluetooth earphone is not found hanging from your neck and it appears that after coming out you have turned to your left and went outside the coverage area of the said CCTV. What do want to say?

**Ans.** It is fact when in the footage I was found to come out, my helmet is found with me but the Bluetooth earphone, which was found hanging in my neck at the time of my entry, is not found at the time of my exit.

**Q.20.** The said particular CCTV footage (Mat Exbt. LVII) is showing to you now in the system of this court. It appears that the version of PW-31 in respect of your entry and exit at the Chest Department situated at 3<sup>rd</sup> floor of the Emergency Building, is clearly visible in the said footage and it also appears from the said footage that when

you took entry at the said Chest Department you had one helmet in your hand and one Bluetooth device earphone was hanging from your neck but when you came out, the helmet is found in your hand but the earphone, which was hanging from your neck at the time of your entry, was not found. What do want to say about the said footage and what is your explanation about your presence at the Chest Department, RG Kar Medical College and Hospital situated on the 3rd floor of the Emergency Building, from 04.03.31 am to 04.31.40 am on 09.08.2024 ?

**Ans.** It is true.

**Q.21.** From the evidence of PW-31 (ASI Samar Paul) it appears that on 09.08.2024 at around 10.00 am on receipt of a call from the OC, RG Kar Police Out Post he went to the Chest Department situated at 3<sup>rd</sup> Floor of Emergency Building and noticed that body of one woman was lying in the seminar hall attached to the Chest Department of RG Kar Hospital. What do want to say?

**Ans.** I can not say anything about it.

**Q.22.** From the evidence of the said PW-31, it also appears that on 09.08.2024 at around 09.30 pm the police officials were checking the CCTV footage of the hospital and at that time, one of the Civic Volunteer posted at RG Kar Hospital namely Dilip Kumar Saha had identified you, when you were found in one of the CCTV footages. What do want to say?

**Ans.** I can not say anything about it.

**Q.23.** From the evidence of said PW-31, it also appears that you used to visit RG Kar Hospital frequently, with patients and as such, you were known to the said PW-31 and that your contact number was with him. What do want to say?

**Ans.** I used to meet ASI Samar Paul at his place of posting and his residence under instruction of ASI Anup Dutta and I was also asked by ASI Anup Dutta to deliver his personal belongings like the bottle of liquor to ASI Samar Paul at several times and accordingly, I was known to ASI Samar Paul and my contact number was with him.

**Q.24.** The said witness also deposed that under the instruction of OC, RG Kar Police Out Post, he tried to contact you at around 10.30 pm and 10.31 pm on 09.08.2024 and asked you to come to RG Kar Hospital but you denied. What do want to say?

**Ans.** It is fact that I have received the call from ASI Samar Paul and I was asked by him to go to RG Kar Hospital and at that time, I was with ASI Anup Dutta and I told him that I would go there.

**Q.25.** From the evidence of said PW-31, it appears that you used to visit the said hospital under the reference of ASI Anup Dutta and as such, he had called ASI Anup Dutta and requested him to instruct you to come to RG Kar Hospital. What do want to say?

*Ans. I can not say whether ASI Samar Paul had called ASI Anup Dutta on 09.08.2024 after 10.30 pm.*

*Q.26. From the evidence of PW-20 (Constable Chandan Bhowmick) it appears that on 09.08.2024 while he was on standby duty at the Barrack of 4<sup>th</sup> battalion, Kolkata Police at Salt Lake, he was instructed by ASI Anup Dutta at around 10.30 pm to drop you at RG Kar Police Out post and that he was waiting at the gate of the Battalion and called you several times and afterwards, when you came to the gate, he had picked you up in his motor bike and dropped you to the OC, RG Kar Police Out Post and this version was supported by the P.W-30(ASI Anup Dutta). What do you want to say?*

*Ans. When I have received the call from ASI Samar Paul, we were taking food sitting in the room of ASI Anup Dutta at our battalion and at that time, I told Anup Dutta that I was instructed to go to RG Kar Hospital and Anup Dutta asked me to go there and he had instructed Chandan Bhowmick to drop me at RG Kar Hospital.*

*Accordingly, Chandan called me but as I was at washroom, I could not receive the call and later I went to the main gate of battalion and Chandan took me to RG Kar Hospital in a bike.*

*Q.27. From the evidence of PW-49 (Inspector Rupali Mukherjee), it appears that on the basis of some definite information you were arrested in connection with this case on 10.08.2024 and when you were under the process of interrogation on 09.08.2024, your mobile phone was taken by the said witness but as the battery was low, it was placed for charging at Tala PS and after examination of the same, it was handed over to you and after your arrest on 10.08.2024, the same was seized by the said witness in presence of P.W-26(ASI Sanjay Lohar) which was one old used navy-blue colour Redmi mobile phone having IMEI no. 864712051844293 and IMEI no. 864712051844301 having VI SIM card and the said mobile phone was exhibited in this case as Mat Exbt. LXX (P-49). What do you want to say?*

*Ans. This is my mobile phone.*

*After reaching to RG Kar Hospital on 09.08.2024 with Chandan Bhowmick, I did not find ASI Samar Paul there and I have called him and he instructed me to go to the RG Kar Police Out Post and I went there.*

*I was taken to one hall of RG Kar Hospital by two plain cloth police persons. In the said room one IPS officer was there and the CCTV footage which is shown to this court today (Mat Exbt. LVII) was also shown to me and I have identified myself in the said footage. Afterwards, I was asked to sit in the said room and subsequently, the said two plain cloth persons escorted me and after coming out I found that prison van was there and several media persons and good number of people assembled there. It was the night of 09.08.2024.*

*From RG Kar I was taken to Lalbazar.*

*At that time, my phone was not taken by any police officer.*

**Q.28.** *From the evidence of PW-27 (Sanjay Dutta, Alternate Nodal Officer of Vodafone-Idea Ltd), it appears that the SIM no. 8991301804790404373 vide service connection no. 9051461112 was allotted in your name and the said document (CAF) was proved as Ext.P-142 (27) . What do you want to say ?*

**Ans.** *I admit that the mobile number 9051461112 was registered in my name and I used to use it.*

**Q.29.** *From the evidence of the PW-27, it appears that the CDR of the mobile number 9051461112, which was in your name, was proved before this court as Ext-P142(27) and as per the said CDR, this particular mobile number was located at 244 AJC Bose Road, Lala Lajpat Rai Sarani, Kolkata 700020 at 2.31.21 hours on 09.08.2024 and that the tower location of the hand set was found at 123 Bidhan Sarani, Kolkata-04 at 04.38.32 hours on the same day i.e 09.08.2024 and at that time you have received one SMS from the State Bank of India and the said tower location and the location RG Kar Medical College & Hospital were adjacent to each other. What do you want to say ?*

**Ans.** *It is fact that at the said time, I came out from RG Kar Hospital and smoked there and then I left the said hospital premises.*

**Q.30.** *As per the seizure list dated 10.08.2024 one of the IMEI number of your mobile hand set was 864712051844301 but as per CDR the said IMEI number was 864712051844300 and as per the evidence of PW-27, the first 14 digits of the IMEI remains same in the system generated CDR but the last digit, which is called as 'check digit' is always converted to '0'(zero) and it cannot be manually changed and therefore, the IMEI number of your seized mobile phone and the same of the CDR are found similar to each other. What do you want to say?*

**Ans.** *I can not say anything as it is the technical issue.*

**Q.31.** *From your letter of appointment/selection list dated 21.12.2018 issued by the DCP [Combat Battalion, Kolkata Police] [Exbt. P-172(34)], it appears that your mobile number was registered there as 9051461112 and the said number is same as per the CDR of the said contact number proved by the prosecution and the Customer Application Form (CAF) also shows that the said number was registered in your name. What do you want to say?*

**Ans.** *I have only one mobile number 9051461112.*

**Q.32.** *From the evidence of PW-49(Inspector Rupali Mukherjee) it appears that after interrogation and on being satisfied that you were behind the incident, you were arrested on 10.08.2024 at the office of WG Cell, DD, Lalbazar, Kolkata Police and proper Memo of Arrest and Inspection Memo were issued where you have signed, which was marked as Exbt. P-205(49) (shown to the accused). What do you want to say?*



*Ans. Yes. In this document my signature is there.*

*On 09.08.2024 at night I was taken to Lalbazar from RG Kar Hospital and I was taken at WG Cell where one Madam Sufia Mallick had asked me to handover all my personal properties and when I denied, I was scolded by the other officials.*

*Then I have handed over my mobile, wallet and one necklace (Mala of goddess) to Sufia Mallick Madam.*

*On that night I was not kept in lockup. I was asked to wait in another room at Lalbazar. There I was beaten by the police personnel. My hairs were pulled, I was made naked and in the morning I was taken to the DC Special and he had asked me to confess my guilt and that they would manage everything.*

*I did not accept to confess my guilt and then I was beaten and I was taken to the room of the then CP, Binith Goyel and the CP also asked me to confess my guilt and that they would match everything to tag me.*

*On 10.08.2024 I was taken to SSKM Hospital.*

**Q.33.** *From the evidence of PW-8 (Dr. Biswanath Soren) it also appears that he had examined you and on examination, he had noticed several scab abrasions over various portions of your face, back of left thigh and doctor specifically opined that injuries over your finger and dorsal aspect of left hand were due to friction with rough surface and the other injuries were caused due to friction with pointed tip of pin like object or with nails of finger or toe. It also appears that the entire medico legal examination was videographed and the P.W-9 (Jayanta Rajbangshi) had proved the said videography [Mat Ext-I(P9)] (The said video is played in the system of the court and is shown to the accused). What do you want to say?*

*Ans. I went to Salua with ASI Anup Dutta on 05.08.2024 and came back on 08.08.2024 and there I tried for training of climbing and at that time, I suddenly fell down and sustained some injuries and the injuries shown in this video, might be for that.*

*The injuries noticed over my hand was sustained by me while I was at Salua.*

**Q.34.** *From the evidence of PW-37 (Dr. Ardash Kumar) it appears that one Multi Institutional Medical Board was formed by the CBI and the said Board had examined the Medico Legal Examination report of you prepared by the PW-8 [Exbt. P-8/1(8)] and the said Board opined that the injuries over your body noted by the PW-8 were the resistance/struggle injuries by the victim. What do you want to say?*

*Ans. This is the false opinion.*

**Q.35.** *As per the opinion of PW-8 and PW-37 the said injuries were caused between 24 to 36 hours prior to your medico legal examination on 10.08.2024. What do you want to say?*

*Ans. This is the false opinion.*

**Q.36.** *From the evidence of PW-8 (Dr. Biswanath Soren) and Exbt. P-8/1(8) it*



appears that you were examined on 10.08.2024 at 12.00 noon and the opinion was that the injuries found over your body were between 24 to 36 hours prior to 12.00 noon of 10.08.2024 and on mathematical calculation the said time falls within time span 4.00/4.30 am on 09.08.2024, when you were found at the Chest Department situated at the Emergency Building, 3<sup>rd</sup> Floor of R.G.Kar Medical College & Hospital in the CCTV footage. What do you want to say?

**Ans.** This opinion is formed to implicate me falsely.

**Q.37.** From the evidence of PW-49 (Inspector Rupali Mukherjee), it appears that your statement was recorded on 12.08.2024, when you were in police custody and in the said statement you have stated that if you would be taken to the Barrack at 4<sup>th</sup> battalion, you would produce your wearing apparel and footwear which were used by you on 09.08.2024, when you were found at RG Kar Hospital. What do you want to say?

**Ans.** I did not say anything like this.

**Q.38.** From the evidence of PW-49 it also appears that on the basis of the said statement, you were taken to 4<sup>th</sup> battalion of Kolkata police at Salt Lake and you had shown a separate room in the said Barrack vide No. B 14K where you used to stay in the barrack and the said room was under lock and key and you have shown the place where the key of the said room was kept and the room was opened by you. What do you want to say ?

**Ans.** The actual fact is that my wearing were taken out on 09.08.2024 while was at Lalbazar and on 12.08.2024 the same was orchestrated. We generally keep the keys of the room at a particular place which is known to everyone and when I was at Lalbazar I was shown the place of keeping the keys by way of video callings.

**Q.39.** It also appears from the evidence of PW-49 that they took entry into the said room with you and you have shown your wearing used by you on the date of incident (09.08.2024) and you have also produced the key of the bike and your footwear and other articles and the same were seized by the PW-49 by preparing a proper seizure list and you have also signed in the said seizure list. What do you want to say ?

**Ans.** It is a planted incident.

**Q.40.** The said seizure list [Exbt. P-215(49)] is shown to you and my question is whether you find your signature in the said seizure list ? What do you want to say?

**Ans.** This is my signature in the said document shown to me.

**Q.41.** From evidence of PW-49, it appears that said search and seizure procedure was videographed and the said video was shown to the court (**Mat Exbt. LXXIII**) and the same is also shown to you today and it appears from the said video that you have identified your wearing, footwear, key of the bike, helmet, charger and other articles and the same were seized in your presence. What do you want to say?

*Ans. This video is a planted one.*

**Q.42.** From the evidence of PW-49 it also appears that the said motorbike vide No. WB-01-AE-5021, was also seized as shown by you and you have also signed in the seizure list. What do you want to say?

*Ans. Yes. This is my signature.*

**Q.43.** The T-shirt, jeans pant, and the footwear of you were proved in this case as Mat. Exbts. XXVIII, XXVI and XXVII and LXXII and the same are shown to you. What do you want to say about these wearing apparel and footwear?

*Ans. Yes. These are my wearing apparels and footwear and this is the said helmet (identified properly).*

**Q.44.** From the evidence of PW-8 (Dr. Biswanath Soren) it appears that on 10.08.2024 you were placed for your Medico Legal Examination and you gave your consent for such examination in your own handwriting (the document is shown to the accused). What do you want to say?

*Ans. Yes. This is my own handwriting but I was forced to write it down.*

**Q.45.** From the evidence of PW-12 (Dr. Antra Burman) and PW-24 (SI Subrata Chatterjee) it appears that on 09.08.2024 in between 08.30 pm to 10.45 pm several articles were seized from the dais of the Seminar Room attached to the Chest Department of R.G. Kar Medical College and Hospital and one of the seized articles was blue and black colour, Bluetooth earphone of 'Luma' and the same was proved in this case as Mat Exbt. XVII (P-12). (The said earphone is shown to the accused) What do you want to say?

*Ans. This is not my Bluetooth earphone.*

**Q.46.** From the evidence of PW-29 (L. Nato Singh, Assistant Director and Scientist C, CFSL, Kolkata) it appears that he had examined the said Bluetooth earphone along with your seized mobile phone having IMEI number 864712051844301 and data was retrieved from the said Bluetooth earphone and connectivity and pairing between the said Bluetooth earphone and your seized mobile were found. It was also the opinion of the said witness that during examination only one Bluetooth earphone was found paired with your seized mobile phone and it was also the opinion that the seized Bluetooth earphone was the only continuously paired device with your seized mobile phone. What do you want to say?

*Ans. The report is not correct.*

**Q.47.** As per the CCTV footage, when you entered within the coverage of the CCTV, installed at 3<sup>rd</sup> floor of Chest Department, Emergency Building, R.G. Kar Medical College & Hospital, you were found to carry one earphone at your neck but when your exist was captured by the said CCTV, no earphone was found with you and the earphone which was seized from the dais of the seminar room found paired with your mobile phone. What do you want to say ?

*Ans. It is not correct.*

**Q.48.** From the evidence of PW-39 (Sanat Kumar Saha, Senior Scientific officer, MFU, Kolkata Police) it appears that they have visited the said Seminar Room situated at 3<sup>rd</sup> floor of Emergency Building of R.G Kar Hospital and noticed that one dead body of a lady was lying on the dais which was covered with green colour bed cover and that he had noticed good number of injury marks over the face of the dead body and that there was blood in the eyes and lips of the dead body and that they found one spectacles but one glass of that spectacle was missing there and after removing of the dead body they found the said Bluetooth earphone under the mattress, which was subsequently found paired with your seized mobile phone. What do you want to say?

*Ans. I can not say.*

**Q.49.** It appears that the said search and seizure was properly videographed and the location of the earphone in the said video (Mat Ext LXXVI) . What do you want to say?

*Ans. I have no relation with the said bluetooth earphone.*

**Q.50.** It appears from the evidence of PW-15 (Dr. Paulin Ara Parven) that on 17.08.2024 she had collected the blood of you at the CGO Complex at the office of CBI after taking your consent and the said blood was collected for DNA profiling and the said Blood Sample Authentication Form was duly proved as Exbt. P-51 (15), which bears your signature. What do you want to say?

*Ans. Yes. It is true that my blood was collected at CBI office.*

**Q.51.** It appears from the evidence of PW-39 (Sanat Kumar Saha, Senior Scientific Officer, MFU, Kolkata Police) that on 09.08.2024 the forensic team had conducted collection of articles at the scene of crime and after removing of the body they found one spectacle but one glass of the said spectacle was missing and the said missing glass was also found at a place under the body of the victim. What do you want to say?

*Ans. I can not say.*

**Q.52.** It appears from the evidence of PW-12 (Dr. Antra Burman) that on 09.08.2024 police had conducted search and seizure at the said place of occurrence and at that time, one spectacle with one glass was seized by police and she had proved the same as Mat Exbt. XX(P-12). What do you want to say?

*Ans. I can not say.*

**Q.53.** It appears from the evidence of PW-47 (P. Paul Ramesh, Deputy Director, Physic, CFSL, Kolkata) that he had examined the said spectacle and the glass which was separated from the said spectacle and he opined that the said glass was the part of the spectacle and the same were separated due to application of force. What do

you want to say?

**Ans.** I can not say.

**Q.54.** From the evidence of PW 37 (Dr. Ardash Kumar) and the opinion of MMIB (Exbt. P178(37)), it appears that the lacerations present on the edge of the helical crus of the right ear pinna were indicative of signs of struggle as the victim used spectacles. What do you want to say?

**Ans.** I can not say.

**Q.55.** From the evidence of father of the victim (PW2) it appears that her daughter was a second year PGT of Chest Medicine of R.G. Kar Medical College and Hospital and on 08.08.2024 her daughter (victim) had the scheduled OPD duty for 36 hours and that she left home to join the duty on 08.08.2024 at 08.10 am and the last conversation between the victim and her parents was at 11.15 pm. What do you want to say?

**Ans.** I can not say.

**Q.56.** From the evidence of PW-3 (Dr. Golam Azam), PW-4 (Dr. Arka Sen), it appears that they along with the victim, Dr. Soumitra Roy and Dr. Suvajit Sinha took dinner sitting together at the dais of the Seminar Room and their dinner was completed at around 1.15 am on 09.08.2024. What do you want to say?

**Ans.** I can not say.

**Q.57.** From the evidence of PW-3 (Dr. Golam Azam), it appears that at around 2.15 am on 09.08.2024 he went to the Seminar Room in search of the PW-4 Dr. Arko Sen but Dr. Arko Sen was not found there and that he had noticed that the entry gate of the Seminar Room was partially opened and the victim was found sleeping on the dais of the said Seminar Room on a mattress. What do you want to say?

**Ans.** I can not say.

**Q.58.** From the evidence of PW-4 (Dr. Arko Sen), it appears that after completion of dinner at around 1.15 am on 09.08.2024 with the victim and others he went to the Sleep Room situated opposite to the Seminar Room and again at around 2.00 am/2.15 am he again went to the Seminar Room to bring his bag and noticed that the victim was sleeping on the dais of the said Seminar Room by covering herself with a red colour blanket. What do you want to say?

**Ans.** I can not say.

**Q.59.** From the evidence of PW-3 and PW-4 it appears that the victim was found normal and alive upto 2.50 am on 09.08.2024. What do you want to say?

**Ans.** I can not say.

**Q.60.** From the evidence of PW-4 (Dr. Arka Sen), it appears that on 09.08.2024 at around 09.00 am he went to the Nursing Station from the Sleep Room to join his regular duty and at 09.30 am he was informed by Dr. Soumitra Roy that he tried to call the victim but could not connect. What do you want to say.

**Ans.** I can not say.

**Q. 61.** The said witness (PW-4) also stated that then he went to the Seminar Room to call the victim as he had seen the victim lastly at the said seminar room at around 2.15 am on 09.08.2024. What do you want to say?

**Ans.** I can not say.

**Q.62.** The said witness (PW-4) also stated that the door of the Seminar Room was kept ajar and he alone entered in the said Seminar Room and had seen that the lower portion of the body of the victim was naked and the upper portion wearing (kurta) was moved upwards and breasts were visible and that he had noticed some injury marks over her face. What do you want to say?

**Ans.** I can not say.

**Q.63.** From the evidence of PW-4, it also appears that he got panicked and went to the Nursing Station and narrated the situation to Dr. Pooja, Dr. Priya and Dr. Venila and Dr. Priya and Dr. Venila had intimated the incident to Dr. Sumit Roy Tapadar, the Visiting Physician, under whom the victim was the PGT and Dr. Sumit Roy Tapadar went to the Seminar Room and examined the victim and it seemed that the victim was no more. What do you want to say?

**Ans.** I can not say.

**Q.64.** From the evidence of PW-6 (Dr. Sumit Roy Tapadar), it appears that on 09.08.2024 he joined his duty by 09.30 am and went to the chamber of HOD to sign the Attendance Register and while he was alone at the chamber of HOD, Dr. Priya Giri and Dr. Venila met him there and that they were sorbing and they informed him the name of the victim and asked him to go to the Seminar Room attached to the Chest Department situated at 3<sup>rd</sup> floor of Emergency Building of RG Kar Hospital. What do you want to say?

**Ans.** I can not say.

**Q.65.** From the evidence of said PW-6 it also appears that then and there he had rushed to the Seminar Room with Dr. Priya Giri and Dr. Venila and noticed that the victim was lying on a mattress on the dais in a very unnatural way and that the two lower limbs of the victim were wide open and she was in half naked condition. It was his evidence that the lower limbs and abdomen of the victim were completely exposed, the kurta of the victim was moved upwards and breasts were exposed and the head of the victim was leaning towards right side and this version was supported by the P.W-5(Dr. Pooja Rai). What do you want to say?

**Ans.** I can not say

**Q.66.** From the evidence of PW-6, it also appears that no body movement or respiratory movement of the victim was found and the said witness checked the left eye of the victim by using the mobile flash light and it was noticed that the pupil was dilated and fixed and he had also noticed several injuries over the nose and mouth



area of the victim and he was of self opinion that the victim was murdered and was sexually assaulted. What do you want to say?

**Ans.** I can not say.

**Q.67.** From the evidence of PW-7 (Dr.Poli Samadder), it appears that on 09.08.2024 after 12.44 pm she had issued the Certificate of Death of the victim and the same was proved in this case as Exhibit P-6(7) and the dead body was sent for post mortem examination. What do you want to say?

**Ans.** I can not say.

**Q.68.** From the evidence of PW-10 (Shibasis Dey, Ld. JM, 2<sup>nd</sup> Court, Sealdah), it appears that in terms of the direction of the Ld. ACJM, Sealdah dated 09.08.2024 he had conducted inquest over the dead body of the victim of this case in connection with Tala PS UD case No. 861 of 2024 and that he deposed that the said inquest was conducted on 09.08.2024 at 04.20 pm in presence of two lady doctors namely Dr. Diyasini Roy and Dr. Antra Burman. What do you want to say?

**Ans.** I can not say.

**Q.69.** From the evidence of PW-12 (Dr. Antra Burman), it appears that she had supported the version of the PW-10 by saying that she along with Dr. Diyasini Roy were present at the time of holding of inquest by the PW-10. What do you want to say?

**Ans.** I can not say.

**Q.70.** From the evidence of PW-10 (Shibasis Dey, Ld. JM, 2<sup>nd</sup> Court, Sealdah ) , it appears that the body of the victim was lying on a blue colour mattress in half naked condition and one jeans pant and brown panty were lying at the left side of the body of the victim and on examination he had noticed bleeding from both eyes and mouth, injuries over face, bleeding from vagina, injuries over left leg and abdomen, injuries over left leg ankle, injury marks at her neck, right hand, right finger and lips. What do you want to say?

**Ans.** I can not say.

**Q.71.** From the evidence of said witness (PW-10) , it appears that that there were multiple hair over the mattress and blood was soaked over the blue mattress and he had proved the inquest report as Exbt. P-3/1(10) . What do you want to say?

**Ans.** I can not say.

**Q.72.** From the evidence of the PW-10 it also appears that the entire process of inquest was videographed. What do you want to say?

**Ans.** I can not say.

**Q.73.** From the evidence of PW-11 (ASI Shekar Roy of Scientific Wing, DD, Kolkata Police) it appears that on 09.08.2024 he conducted videography of the entire process of inquest in the official Sony video camera of Kolkata Police by using one 16 GB micro SD card of Master company and the same was exhibited as Mat Exbt. II(P-11)



*(The video clipping is shown to the accused in the system of the court). From the said video it is found that the detailed version of the PW-10 is true. What do you want to say?*

**Ans.** *I have no idea.*

**Q.74.** *From the evidence of PW-21 (Dr. Apurba Biswas) it appears that he had conducted the post mortem over the dead body of the victim in connection with Tala PS UD case No. 861 dated 09.08.2024, Tala PS inquest no. 1139 of 2024 and that the said PM was conducted by forming a team which included Dr. Rina Das and Dr. Moly Banerjee. What do you want to say?*

**Ans.** *I can not say.*

**Q.75.** *From the evidence of the said PW-21 (Dr. Apurba Biswas) it also appears that the dead body was received at the Morgue for the post mortem at 05.10 pm and as the said time crossed the specific time mentioned in the direction of Government of West Bengal, the PM was conducted after getting the requisition from Tala PS. What do you want to say?*

**Ans.** *I can not say.*

**Q.76.** *From the evidence of the said PW-21 (Dr. Apurba Biswas) it appears that the said postmortem was attended by the junior doctors like Dr. Titas Pal, Dr. Nirmita Saha, Dr. Riya Bera, Dr. Rama Bera and Dr. Moutrisha Ghorai and one Manas Kumar Deb also attended on behalf of the father of the victim. What do you want to say?*

**Ans.** *I can not say.*

**Q.77.** *From the evidence of the PW-21 (Dr. Apurba Biswas) and the PM report [Exbt. P-105(21)], it appears that the injuries, both internal and external, were specifically mentioned in the said report and the viscera, PM blood, scalp hair, nail cuttings and scrapings from both hands, wet vulvar mop, pubic combings were properly collected, preserved, sealed and packed. What do you want to say?*

**Ans.** *I can not say.*

**Q.78.** *From the evidence of the said PW-21 (Dr. Apurba Biswas) it also appears that vaginal swab, endocervical swab, swab from inner side of lips, swab from all around of both nipples and anal swab were collected and smear was made and the same were properly preserved. What do you want to say?*

**Ans.** *I can not say.*

**Q.79.** *The said doctor opined that the death was caused any time within 19 hours prior to the time of conduction of PM examination and this PM examination was done from 06.10 pm to 07.10 pm on 09.08.2024 and if we calculate 19 hours back from the said time, it comes within the span of 04.00 am to 4.30 am dated 09.08.2024. What do you want to say?*

**Ans.** *I can not say.*

**Q.80.** From the evidence of the PW-37 (Dr. Ardash Kumar) and the report MMIB [Exbt. P-178(37)], it appears that the death of the victim was caused between 12.00 mid night to 06.00 am of 09.08.2024. What do you want to say?

**Ans.** I can not say

**Q.81.** From the evidence of the said PW-21 (Dr. Apurba Biswas) it appears that some photographs during PM were snapped by Dr. Rina Das (PW-44) in her personal mobile and the said photographs were exhibited in this case as P-118(21) to P-129(21) and Dr. Rina Das (PW 44) also supported that the snaps were taken by her (The said 13 photographs are placed to the accused). What do you want to say?

**Ans.** I can not say anything.

**Q.82.** From the evidence of the said PW-21 (Dr. Apurba Biswas) and Ext-P-124(21) it appears that there was sub-conjunctival hemorrhage and the same signifies that it was violent asphyxial death due to compression effect over neck and the bleeding found from the eyes and nose was due to that compression and that there were no direct internal injuries over the eyes and nose. What do you want to say?

**Ans.** I can not say.

**Q.83.** From the Exbt. P-125(21) and the evidence of PW-21 it appears that the particular injury mark in the said photograph signifies that it was caused by none other than by compression of right hand thumb and it was not visible from outside and the extravasation of blood is found only on dissection. What do you want to say?

**Ans.** I can not say.

**Q.82.** From the Exbt. P-126(21) and the evidence of PW-21 (Dr. Apurba Biswas) it appears that there was extravasated blood over left posterior parietal area of scalp tissue and diffused blood under left side temporal areas of scalp tissue and the opinion of the doctor was that the same was caused by pushing the head repeatedly with force against any background which was not so hard and for that reason no external lacerated injuries were found. What do you want to say?

**Ans.** I can not say.

**Q.84.** From the Exbt. P-128 (21) and evidence of the PW-21 (Dr. Apurba Biswas) it appears that the bruise over right side of hymen at 10 O' Clock position and full thickness tear of hymen at 3 O' clock position with oozing of blood signifies insertion of something which was hard, blunt but the surface is smooth and the same was inserted with some force for which the said injuries occurred. What do you want to say?

**Ans.** I can not say.

**Q.85.** From Exbt. P-129 (21) and from the evidence of the said PW-21 (Dr. Apurba Biswas) it is clear that the victim was alive during the act of penetration/insertion as in case of bruise/extravasation of blood, it requires damage/injured blood vessel with

pumping heart and the same means that at the time of the said penetration/insertion the victim was alive and might be in moribund situation. What do you want to say?

**Ans.** I can not say.

**Q.86.** From the evidence of the said PW-21 it also appears that the injuries found over nose, filtrum and left supra labial area, over undersurface of right side of jaw, over left side of anterior surface of neck were simple in nature and occurred due to resistance during struggle . What do you want to say?

**Ans.** I can not say.

**Q.87.** From the evidence of the said PW-21 (Dr. Apurba Biswas) it also appears that he had noticed most of the defence injuries over the mouth, nose, cheek and neck of the victim and the same were over a localized area. What do you want to say?

**Ans.** I can not say.

**Q.88.** As per the evidences of the PW-21, PW-37 and Exbt. P-178(37) it appears that such injuries were inflicted by a single person. What do you want to say?

**Ans.** I can not say.

**Q.89.** From the evidence of the PW-17 (Dr. Soma Roy) and Exbt. P-56(17), it appears that your wearing apparel like the jeans pant and T-shirt (**Mat. Exbt. XXVI and Mat Exbt. XXVIII**) along with your footwear (**Mat Exbt. XXVII**) were sent for forensic examination and on examination of the same, human blood was found over your jeans pant and footwear and the said blood matched with the DNA profile of the blood of the victim and the same suggests that you were at the scene of crime. What is your explanation?

**Ans.** I can not say.

**Q.90.** From the evidence of the PW-21 (Dr. Apurba Biswas) it appears that nipple swab of the victim was taken and it also appears that the same was sent for forensic analysis by the IO and the DNA profile of the saliva found in the said nipple swab of the victim matched with your DNA profile as found in your blood samples collected by PW-15 on 17.08.2024 at the CGO Complex when you were in the custody of CBI and matching of the said DNA also shows your presence over the body of the victim. What do you want to say?

**Ans.** I can not say.

**Q.91.** From the evidence of the PW-21 (Dr. Apurba Biswas) it is clear that the throttling was made by using a single hand (right hand only) and as per evidence of PW-6 (Dr. Sumit Roy Tapadar) the head of the victim was leaning towards her right side and the same suggests that force of hand was used for such throttling and as such, the neck was leaned towards the right side of the dead body. What do you want to say?

**Ans.** I can not say.

**Q.92.** As per evidence of PW-37 (Dr. Ardash Kumar), the inquest report, autopsy

report and the injury report were consisted with each other. What do you want to say?

**Ans.** I can not say.

**Q.93.** From the evidence of the said PW-21 (Dr. Apurba Biswas) it appears that no incident of any fracture of ribs or bones could be possible due to the injuries noted in the PM report. What do you want to say?

**Ans.** I can not say.

**Q.94.** From the evidence of the PW-17, it appears that there was human blood over the jeans pant of the victim, the panty of the victim, blanket used by the victim, the bed sheet, brassier, inner, kurti of the victim and the said human blood matched with the DNA of the blood sample of the victim. What do you want to say?

**Ans.** I can not say.

**Q.95.** From the evidence of PW-10 (Shibasish Dey, Ld. JM), it appears that he had noticed multiple hairs over the mattress and the same was collected by forensic team and sent to CFSL for forensic examination and as per evidence of P.W-17, the said hair sample contained some long hair and short hair and as per the evidence of PW-17 and Exbt. P-56(17) the DNA profiling of the said short hair matched with your DNA profile and the same again shows your presence over the said mattress. What is your explanation?

**Ans.** I can not say.

**Q.96.** As per the evidence of PW-10 (Sri Shibasish Dey, Ld. JM), the body was lying on a blue colour bed sheet and the same had soaked blood and the said bed sheet was forensically examined by PW-17 (Dr. Soma Roy) and she stated that the blood stains in the said blue colour bed sheet was of the victim. What do you want to say?

**Ans.** I can not say.

**Q.97.** From the video clippings of the inquest proceeding [Mat Exbt. II(P-11)] it appears that blood is found over the said blue bed sheet at that point where the vaginal portion of the victim was lying and it came out from the inquest report that blood came out from the vagina and as per the post mortem report and the evidence of PW-21 there were bruise and full thickness tear of hymen and the same caused oozing out of blood. What do you want to say?

**Ans.** I can not say.

**Q.98.** From the evidence of PW-47 (P. Paul Ramesh, Dy. Director, Physics, CFSL, Kolkata), it appears that the wearing apparels of the victim like jeans pant, brown colour panty white colour bra, white colour ganji (inner) and read colour kurti were also examined by the CFSL Kolkata (Physics Division). Showing the breaking of stitching thread at the elastic joint and breaking of stitching thread between the cloth and elastic of the panty of the victim, it was opined that the said breaking of stitching was due to dragging it down forcefully.

*As your presence over the body of the victim was forensically established, what is your explanation about such opinion of PW-47?*

**Ans.** *I can not say.*

**Q.99.** *From the explanation of PW-6 (Dr. Sumit Roy Tapadar) it appears that kurti of the victim was moved upwards and the breasts were exposed and the said kurti was examined by PW-47 and his specific opinion was that he had noticed that both sides of waist portion of the kurti were torn and the same was due to sudden pulling up.*

*As your presence over the body of the victim was forensically established, what is your explanation about such opinion of PW-47.*

**Ans.** *I can not say.*

**Q.100.** *From the evidence of PW-37 (Dr. Ardash Kumar) and the final opinion of MIMB (Exbt. P-178(37), it appears that the injury mark on the right side of the neck of the victim shows two sets of indentations of the biting edges of the front teeth of one dental arch and the same were consisted with human bite marks.*

*As your presence over the body of the victim was forensically established, what is your explanation about such opinion of PW-37.*

**Ans.** *I can not say.*

**Q.101.** *From the evidence of PW3 and PW-4 it is clear that the victim went to deep sleep when they have seen her at around 2.15 am/2.50 am on 09.08.2024 and as the attack upon her was sudden and unexpected, she could not give proper resistance. What do you want to say.*

**Ans.** *I cannot say.*

**Q.102.** *What is your explanation about your presence at the RG Kar Hospital premises from 3.00 am to the time after 4.30 am on 09.08.2024?*

**Ans.** *I went to the Trauma Centre as the operation of one of Civic Volunteer was going on. Then I went to the Emergency Building and straight went to the fourth floor but I did not find the patient there and somebody informed that the patient might be at 3<sup>rd</sup> floor and then I came to 3<sup>rd</sup> floor and went to the Male Ward but did not get my patient there and as I was very much tired, I started to wait there but as no patient came, I put my helmet and Bluetooth earphone over a bed there at the 3<sup>rd</sup> floor of Emergency Building (male Ward) and when I came out the helmet was with me but I forgot to bring my Bluetooth tooth ear-phone.*

*After coming out I could not locate the way to go out and as such, in the CCTV footage I was found to turn around and then I could locate the exist point and went out.*

**Q.103.** *Do you want to say anything more?*

**Ans.** *I am innocent and was falsely implicated.*

**Q104.** *Do you want to adduce any D.W?*

**Ans.** *No.*

*Sd/- Sanjay Roy*



(Signature of the accused)

Sd/- Anirban Das

(Signature of Judge)

*The above examination was taken in my presence and hearing and contents a full and true account of the statement made by the accused.*

Sd/- Anirban Das

(Signature of Judge)

20.12.2024”

**Decision with reasons: -**

**1. Who is Sanjay Roy ?**

- (a) He was appointed as a Civic Volunteer of Kolkata Police vide appointment dated 21.12.2018 issued by Dy. Commissioner of Police, Combat Battalion, Kolkata Police and vide order dated 04.10.2021 issued by DCP, Home Guard Organization, he was posted at DMG, under the Central welfare Board (*Source Ext-P-172(34)* and *the reply of the accused during his examination u/s 351BNSS*)
- (b) The said document contains the full details of the accused including his contact number and the educational as well as extra-curricular activities.
- (c) From the certificates, which were part of the said Ext P-172(34), it appears that the said accused was the runners up in a boxing championship and the same was also admitted by the accused during his examination u/s 351 BNSS.
- (d) The said Ext-P172(34) also shows the details of the Bank account of the said accused, lying with the State bank of India, Gokhale Road Branch having account number 38193528017 and the accused during his examination u/s 351 BNSS also admitted the same including the fact that he used to get SMS regarding the said bank account in his mobile vide service connection number 9051461112.
- (e) He admitted during his examination u/s.351 BNSS that he had only one mobile connection vide number 9051461112.
- (f) Prosecution had placed the Customer Application Form (CAF) of the said service connection number 9051461112 and the same also shows that the said connection was registered with the Service Provider Vodafone Idea Ltd in the name of the said accused Sanjay Roy [*Source Ext-P-142(27) & the evidence of the P.W-27*]. The contents of the said CAF matched with the contents of the documents provided by the accused at the time of his selection as a Civic



Volunteer like his Adhar card vide number XXXXXXXXX9720 (the original number is masked).

- (g) The CDR of the said connection 9051461112 was also proved by the prosecution and from the same it appears that the said phone was on use regularly.

**2. Place of posting of Sanjay Roy**

- (a) As per the Order No. 339 dated 04.10.2021, issued by the DCP, Home Guard Organization, Kolkata, the said accused, being selected as Civic Volunteer was attached to the DMG, posted at Central Welfare Board, B.G.L.
- (b) From the evidence of the P.W-30 and P.W-33 (ASI Anup Dutta & Ex-Civic Volunteer Sourav Bhattacharyya) and from the statement of the accused u/s 351 BNSS, it came out that the said accused used to stay at the Barrack of Kolkata Police 4<sup>th</sup> Battalion at Salt Lake and that he was entrusted the duty to look after the police personnel and their family members at various Govt Hospitals.
- (c) It also came out from the evidence of the P.W-33 that the accused used to visit the R.G.Kar Hospital for that purpose.

**3. Profile of the victim**

- (a) From the evidence of the father of the victim (P.W-2) it came out that the said victim was the only child of her parents and that she had completed her MBBS degree from the Kalyani Medical College and that in the year 2022 the victim got chance to continue her PGT in the field of Chest Medicine from the R.G.Kar Medical College & Hospital.
- (b) The P.W-3,4,5 namely Dr. Golam Azam, Dr. Arko Sen, Dr. Pooja Rai also admitted that the said victim was a 2<sup>nd</sup> Year PGT at Chest Medicine Department of R.G. Kar Medical College & Hospital.
- (c) The P.W-6 Dr. Sumit Roy Tapadar admitted that the said victim was a PGT of 2<sup>nd</sup> year under him.

**4. Duty hours of the victim**

- (a) As per the evidence of the PW-6 (Dr. Sumit Roy Tapadar) the PGTs at R.G.Kar Hospital were generally engaged for two shifts of 12 hours each and that it was the general practice that the PGTs of every year prepare their roster sitting together and the same would be placed to the Head of the Department for approval.

From the evidence of the PW-4 (Para-4) (Dr. Arko Sen), we came to know that the PGTs generally do on call duty for around 30 hours 6/7 times a month and that generally the PGTs report to

the respective departments at around 9.00/9.30 am. It was also his version that on the days of *on call duties* they generally do the duty from 09.00 am to 09.00 pm next day and after doing the general duty the PGTs generally would leave the hospital at around 4.00 pm.

- (b) According to the evidence of the father of the victim (PW-2), on 08.08.2024/09.08.2024 the OPD duty, night duty of the victim was for 36 hours.
- (c) The Duty Roster for the month of August 2024 of the 2<sup>nd</sup> Year PGTs was proved by the prosecution as Ext-P229(50) and the said document was not challenged by the defence. From the said document it is clear that the deceased victim was allotted *On Call* duty on 08.08.2024 in Unit IIA, OPD-1. The duty hours of this victim alongwith the other PGTs for the month of August 2024 also found in the said document.
- (d) The duty time of *on call* is found from the evidence of the P.W-4. Therefore, as per the roster, evidence of the P.W-4 and the evidence of the PW-2, it is clear that the duty hour of the victim on 08.08.2024 was from 09.00 am on 08.08.2024 to 09.00 pm on 09.08.2024.

5. When and where the victim was last seen alive during 08.08.2024 to 09.08.2024

- (a) Prosecution during argument stressed upon the evidence of the P.W-3 (Dr. Golam Azam) and P.W-4 (Dr. Arko Sen).
- (b) According to the PW-3, on 08.08.2024 he had joined his duty as House Staff of Chest Medicine department RGKMCH at 9.10 pm and his scheduled duty hour was upto 09.00 am on 09.08.2024. From his evidence it came out that it was the convention of the Chest Department that the seniors generally provide the dinner and as per the said convention, the victim/deceased had to provide dinner on the night of 08.08.2024.
- (c) As per his evidence (Para No. 14 to 19 of the examination in chief), the victim, himself, Dr. Arko Sen, Dr. Soumitra Roy, Dr. Subhadip Singha Mahapatra took dinner sitting at the Seminar Room, situated at the third floor of the Emergency Building and the dinner was completed at around 12.45 am and as per the calendar the date became 09.08.2024 and after dinner all the said doctors went to their respective work place.

(d) This version of the P.W-3 of taking dinner with the victim, the P.W-4, Dr. Golam Azam, Dr. Soumitra Roy, Dr. Subhadip Singha Mahapatra was corroborated by the P.W-4 (Dr. Arko Sen) in Para No. 10 to 17 of his examination in chief. According to him, the dinner was completed at 01.00 am.

The Ld. Counsel for the accused as well as the Ld. Counsel for the Complainant argued that there was contradiction about the time of completion of dinner and the said time gap goes against the case of the prosecution that the time of completion of dinner was not proper.

I have considered the evidences of the said PWs as well as their cross examination and the Ext-P-229(50).

The flow of the evidences adduced by the said two PWs were very natural one. They have mentioned the tradition of having dinner together during night duty. Moreover, the Ext-P-229(50) shows that the names of the PGTs mentioned in their evidences including the PW-4 were on duty on that night. The defence failed to create any doubt about the said evidences.

It was argued by the Ld. Counsel for the complainant and the accused that though the said doctors had dinner together and though orders were placed from a food delivery application, but no such food delivery person was examined or the said containers were not seized. In their view, this was a major lacuna of the investigation process.

I have considered the said argument. In my view, this argument has no strong base. This is because, it is not the case of the prosecution that the death of the victim was due to consumption of any toxic substance. The case is that the death was due to manual strangulation and sexual assault. The case of defence or the complainant was not different from the said claim of the prosecution. The defence never denied the fact of taking dinner together. It was also not the case of prosecution that the victim was forced to consume any toxic substance, which caused her death.

It was the claim of the Ld. Counsel of the complainant that to get the truth, the CBI was duty bound to interrogate all the said persons, who took dinner together, by taking them in custody.

I did not expect such type of argument for the Ld. Counsel. It is needless to mention that any person's liberty will be curtailed if that person would be taken into custody and it is also needless to mention that any person can be taken into custody by any investigating agency if any contradiction be found in their statements during their examination.

Here, in this case, the said doctors were examined properly by the CBI and their statements were duly recorded u/s 180 BNSS. Copies of the same were supplied to the accused and the complainant. During cross examination of the IO no question was/were put from where any fishy game played by the said doctors, who took dinner with the said victim, transpired.

The said doctors did not imagine that the said dinner would be the *last supper* of the victim. From the evidence on record, I did not find anything by which any involvement of the said doctors can be attracted.

Accordingly, I humbly differ from the argument of the accused and the complainant that the said doctors, who took dinner together on that fateful night with the victim, had any nexus with this case.

- (e) Let us now discuss the consistencies or inconsistencies about the *post dinner episode*, as came out from the evidence of the P.W-3 and P.W-4 and the logical conclusion which can be drawn from it.

From the examination in chief of the PW-3 (Para 25 to 28), there appears that on 09.08.2024 at 2.50 am, he went to the R.C.U Room situated at 3<sup>rd</sup> floor of Emergency Building (Chest department), to conduct the ABG test of a patient and then he went to the Seminar Room to get the PW-4 there but he did not get him and then he went to the Sleep Study Room and got the PW-4. It was his evidence that when he took entry at the Seminar Room, from the main door he had noticed that the victim was sleeping in the said room on a mattress on the dais.

The argument of the Ld. Counsel of the accused and the complainant was that from Ext-P-47(14) (photograph no.30) any person of common prudence will say that from the entry gate of the said Seminar Room, it was not possible for anyone to see whether any person was on the dais or not.

I have considered the said argument and I have also considered the cross examination of the said P.W-3. It is fact that at the time of the cross examination, the said photographs were with the Ld. Counsel of the accused and the Ld. Counsel of the accused had visited the PO by taking permission from this court. But no question was put to the witness on this point. Similarly the distance between the said door and the dais was also not put to the P.W-19 (Bikash Chandra Majee) or the P.W-49 and P.W-50 (the two IO of this case from Kolkata Police and the CBI). Question was not put to the PW-3 the distance he had crossed in the said Seminar Room at that fateful night when he went there after 2.50 am.

The evidence is that the PW-3 and PW-4 took dinner with the victim in the said Seminar Room and it is obvious that they were well aware of the topography of the said room. It was the duty of the defence to put the relevant questions to them, which they placed during the argument but unfortunately, no such question was put.

Accordingly, in absence of any cogent evidence, I am not inclined to accept the said argument.

The PW-4 deposed that at around 2.00/2.15 am on 09.08.2024, he went to the said Seminar Room to bring his bag and had noticed that the victim was sleeping on the dais covering herself with a red color blanket (Examination in chief para 21).

This version of the said PW-4 was also not contradicted by any cogent piece of evidence during the cross examination.

During argument it was pointed out by the Ld. Counsel for the Complainant that though it was the month of August and extreme hot weather, why the victim was sleeping covering herself with blanket, was not answered by the prosecution and as such serious doubt created about the evidence of the P.W-4 when he stated that he had seen the victim to sleep covering red colour blanket.

Again I humbly want to say that this type of argument was not at all expected in such a serious case. The P.W-3,4,19 or the PW-49 and 50 were not asked whether there were fan or AC in the said Seminar Room.

From the photographs of the said Seminar Room, on which the prosecution, the accused and the complainant relied [Ext-P-47(14)], shows that there was false ceiling in the said Seminar Hall and no photographs shows that there were ceiling fans in the said hall, but from the photographs no. 28,29,30,36 and others specifically shows the existence of the vents of AC, fire alarm etc in the said room and the same proves that the said hall was fitted with AC.

It was not the case of the defence that the said AC machines were not on operation on that night of 09.08.2024. Therefore, using of blanket by the victim can in no way draws any adverse presumption in this case, which can favour the defence.

*The doubt of the complainant is also answered.*

Summing up the discussion above, it can be said that the victim was last seen alive at 2.50 am on 09.08.2024 at the Seminar Hall, situated at the 3<sup>rd</sup> floor of the Emergency Building of R.G. Kar Medical College & Hospital.

**6. When and where the victim was found dead and by whom and who had first discovered that the said victim expired**

- (a) Let us now turn our eyes to the evidence of the P.W-4 again.
- (b) The said witness deposed that on 09.08.2024 at 09.00 am he went to join his regular duty and he was informed by Dr. Soumitra Roy that the victim could not be contacted and the hour of regular round started and that she did not join till then.

As per his evidence, as he had seen the said victim lastly in the Seminar Room, he went there to search out the victim and had noticed that the door of the said Seminar Room was kept ajar and he took entry there alone and noticed the victim in naked position (lower portion) and the upper portion kurti was moved upwards and breasts were visible and he had noticed some injury marks over her nose. Seeing the same, he got panicked and went to the Nursing Station and met his colleague like Dr. Puja, Dr. Priya, Dr. Venila and he somehow narrated to them what he had seen in the Seminar Room. He also deposed that Dr. Priya and Dr. Venila had intimated Dr. Sumit Roy Tapadar, who was the Visiting Physician (VP) of the unit of the victim and the victim was the PGT under Dr. Tapadar and Dr. Tapadar came to the Seminar Room and examined the victim and tried to get the heart bit by using



stethoscope and that on seeing the body it seemed to him that the victim was no more and that Dr. Tapadar instructed to cover the body with one bed sheet (para 28 to 42 of the examination in chief of the P.W-4).

The argument of the defence as well as the Ld. Counsel for the complainant was that it was known to the said witness that the victim was no more and for that reason he went to the said Seminar Room alone and his act creates suspicion and may touch his involvement with the death of the victim.

In my view, this argument is an imaginary one having no strong base at all. By way of cross examination, no such question was put to the said witness. From the evidence (cross examination) it appears that no question was put from where any hostility of this witness and victim can be established and as such I do not find any ground why the complainant raised the *slogan* that this witness had nexus with such unnatural death of the victim and as such his evidence can in no way be relied upon.

I want to say again that the evidence of the said witness was very natural and as such I want to rely upon his oral testimony.

- (c) According to the P.W-4, he had narrated the fact seen by him at the Seminar Room, to Dr. Puja, Dr. Priya, Dr. Venila and others and out of them the Prosecution had examined Dr. Pooja Rai as the P.W-5.

The said witness fully corroborated the evidence of the P.W-4. According to her evidence, she alongwith the PW-4, Dr. Priya, Dr. Venila went to the said Seminar Room and noticed that the victim was lying on the mattress on the dais of the said Seminar Room and that the said victim wore a pink colour kurti and it was noticed by her that the said kurti was moved upward by exposing breast part and there was no clothing in her lower portion. She also noticed that the blue colour jeans pant of the victim was lying beside her body but she did not notice any undergarments. The shoes of the victim were on the dais and her books, laptop and mobile were kept in between her head and the wall of the Seminar Room on the dais. According to her evidence, she had noticed bruise mark over both sides of face of the victim and that her eyes were partially open.

She stated that Dr. Priya and Dr. Venila went to intimate this matter to Dr. Sumit Roy Tapadar (PW-6), who was in the Chamber

of HOD and that within a few moment Dr. Tapadar along with Dr. Priya and Dr. Venila came to the Seminar Room and Dr. Tapadar had examined the body to ascertain the condition of the victim in presence of the said PW and had examined the eyes of the victim by using the flash light of his mobile Dr. Tapadar told them that the pupils were fixed and dilated which implied that the victim was no more and then to maintain the dignity of the victim Dr. Tapadar instructed us to cover the body with a bed sheet and one GDA namely Robi had produced one blue colour bed sheet and the PW-5 covered the body of the victim with that blue colour bed sheet.

Over this evidence, the argument on the part of the Ld. Counsel of the accused as well as Ld. Counsel of the complainant was that why the doctors did not try to contact the PW-6 over phone and why they went to intimate him at the chamber of the HOD and that how the said doctors became sure that the PW-6 was at the chamber of the HOD at that time. According to them, the said points shows that the story was planted to shield the real incident.

Again I am surprised to hear such type of argument.

From Ext-P-96(19) and P-97(19) it appears that the said Chamber of the HOD is situated opposite and close vicinity to the said Seminar Room. If that be so, the question comes up in my mind why there was necessity to contact with the PW-6 over phone, when he could be reached physically immediately. I think that the said PWs did not make any mistake and the said act of them should be viewed with suspicion.

It must be kept in mind that the death was a bolt from the blue to the doctors of the hospital and as such their mental state at that relevant time should also be kept in mind and it should also be kept in mind that the victim was the room mate of the PW-5.

Moreover from the cross examination of the said PW-5, I did not find any material which can prompt me to view the said evidence with any suspicion.

(d) Dr. Sumit Roy Tapadar was examined by the prosecution as the P.W-6. He deposed that on 09.08.2024 he had joined duty at 9.30 am and went to the chamber of the HOD and when he was alone at the said chamber, two first year PGT namely Dr. Priya Giri and Dr. Venila came to the chamber of HOD and they were sobbing and were very much disturbed and that they could not complete any word told him the name of the victim and asked him to go to the

Seminar-Room and he rushed to the Seminar Room with Dr. Priya Giri and Dr. Venila. He also stated that immediately after taking entry to the Seminar Room he noticed that at the furthest end of the Seminar Room, where the dais was placed, the victim was lying on a mattress on the said dais in a very unnatural way and he had noticed that the two lower limbs of the victim were wide open and she was in half naked condition. It was also his evidence that the lower limbs and the abdomen were completely exposed, the kurti of the victim were moved upwards and breast were exposed, the head of the victim was leaning towards right side, there was no body movement or respiratory movement of the victim, and it seemed to him that the victim already expired.

To confirm about the condition of the victim, he (PW-6) went to the dais and checked the left eye of the victim by using the flash light of his mobile and noticed that the pupil was dilated and fixed. He had also noticed several injuries over the nose and mouth area of the victim and he was confirmed that the victim was no more and that he was of the self-opinion that the said victim was subjected to sexual assault and murder. As per the evidence, to keep the dignity of the body he had asked the Ward Sister to cover the body with a bed sheet and under his instruction Dr. Pooja had covered the dead body with the said bed sheet.

- (e) During argument, it was submitted by the prosecution that the said witness (PW-6) duly corroborated the version of the P.W-5 and there is no mist for which the said evidences can be viewed with suspicion.

Against the said argument the Ld. Counsel for the Complainant submitted that the said PW-6 destroyed the scope of getting proper evidence by passing direction to cover the body of the victim with bed sheet of hospital and as such, the said witness was also part of a conspiracy to destroy the evidence.

I do not find any ground to swallow this argument. This is because the act done by the said PW6 was to preserve the dignity of the dead body and it is very hard to think that for covering of the body, the evidence washed away. Again, I humbly oppose the said argument of the defence as the same has no strong base.

The Ld. Counsel for the accused as well as the Ld.

Advocate for the complainant argued in the same tune that though the IO of CBI had examined Dr. Priya Giri and Dr. Venila and recorded their statements u/s 180 BNSS, but they were not brought before this court as witness and such act of the prosecution created a serious doubt. In reply to the said argument the Ld. PP CBI submitted that they have placed the PW-4 and 5, who had placed the story happened in reality and the said evidences were corroborative of each other and the PW-6 also supported the said version and the said evidences go hand in hand. So, the prosecution did not want to increase the quantity of witness, they tried to maintain the quality of witness.

In my view, non-production of all the witnesses, who were with the PW-5 & 6 was not fatal as there was no contradiction between the version of PW-4, 5 and 6 and by way of cross examination, no doubt could be created by the defence. It was also not established by way of cross examination that there was any unholy alliance between them. The defence got enough scope to adduce DW and if it was in the mind of defence that the witness namely Dr. Giri and Dr. Venila would depose something other or totally opposite to the evidence of the PW-4,5,6, they could call them as DW. They did not avail the said scope.

In sum, from the discussion I am of the view that dead body was first seen by the PW-4 followed by the PW-5, Dr. Giri and Dr. Venila and the PW-6 first arrived in the conclusion that said victim was subjected to sexual assault and murder.

**7. Cause of death**

- (a) Amongst the PWs, the PW-6 (Dr. Sumit Roy Tapadar) had opined for the first time that the victim was sexually assaulted and that she was murdered.
- (b) Afterwards an unnatural death case was started by police and on the basis of the said case inquest of the body was conducted by the Ld. Judicial Magistrate 2<sup>nd</sup> Court, Sealdah (P.W-10).
- (c) A question may arise why the Judicial Magistrate was entrusted to hold the inquest.
- (d) As per the provision of S.194 BNSS, the information of death of the nature of this case, must be intimated to the nearest Executive Magistrate and the concerned Police Officer shall

hold the inquest and the report shall be forwarded to the District Magistrate or the Sub-divisional Magistrate.

- (e) As per the provision of S.3 BNSS the term *Magistrate* will indicate the Judicial Magistrate if there will be no qualifying words.
- (f) In S.194 BNSS the term Magistrate is prefixed by the word *Executive* and obviously there was no such reason to place to the Ld. ACJM Sealdah. The police authority could avail the service of the Executive Magistrate.
- (g) As per S.196 BNSS, the word *Magistrate* has no prefix and according to S.3 BNSS, it means the Judicial Magistrate and the ambit of S.196 BNSS is much wider than the provision of S.194 BNSS and for that reason, the Ld ACJM Sealdah entertained the prayer of Police and entrusted the PW-10 to hold the inquest vide Order dated 09.08.2024 [Ext-P-15(10)] and the same was done by the PW-10 and report was prepared [Ext-P3/1(10)].
- (h) The Ld. JM had mentioned in his report the injuries noticed by him over the body of the deceased and the other circumstances as per the procedure of S.194 BNSS.
- (i) It also appears from the said evidence that the entire procedure of inquest was videographed.
- (j) As per the evidence of the PW-10, the mother of the victim was present during the inquest but for an emotional reason, she sitting at a distance.
- (k) Ld JM had noticed bleeding from both eyes and mouth, injury over face and nail, bleeding from vagina, injury in the left leg and belly, injury over left leg ankle, injury at her neck, right hand and ring finger, injury over her lips.
- (l) It was the evidence that the inquest was conducted in presence of two doctors namely Dr. Diyasisni Roy and Dr. Antra Burman and the said doctors and the mother of the victim had signed in the Inquest Report.
- (m) From the cross examination of the said PW it came out that he did not notice any injury at the backside of the body of the victim.
- (n) The dead body was sent for post mortem and the Post Mortem was conducted by three docotrs' board in presence of the PGTs and the representative of the father of the victim and

videography of the entire procedure was done. Prosecution had examined two members of the said team (Dr. Apurba Biswas & Dr. Rina Das). The still photos snapped by Dr. Rina Das was also proved in this case.

- (o) Dr. A. Biswas (PW-21) described in details about the injuries noticed by him and I have already mentioned the same under the heading “Evidence of prosecution” and at present I want to highlight the specific portions of the said evidence.

The opinion of the autopsy team was that the death was due to the effects of *manual strangulation associated with smothering* and the manner of death was homicidal and they were also of the opinion that there was medical evidence of forceful penetration/insertion in the genitalia of the victim and the same was suggestive of possibility of sexual assault.

It was his version that the term *manual strangulation* means throttling and that it was *associated with* smothering. It was also his version that during PM they found marks of pressure by thumb and fingertips and the same was mentioned in point No. 7 and 8 of external injuries noted in the PM report which must be read with internal injuries 5,6, 7, 8 and 9.

It was argued by the Ld. Counsel for the accused that it was not possible for any person to do smothering and throttling at the same time and as such they raised the point that some more persons were involved in the incident.

I want to refer the observation of the Hon’ble Apex Court as reported in AIR 1982 SC 1217 (Prabhakar ~vs~ State). It was the solemn observation of the Hon’ble Court that laceration of the sheath of the carotid artery, fracture of thyroid cartilage and extravasation of blood in the subcutaneous tissues underneath the neck and also in the surrounding muscles of the neck unerringly pointed to the conclusion that death was due to throttling and rules out the probability of anything else.

In the instant case all such ingredients are present and as such there is no ground to disbelieve the opinion of the autopsy team that the death was due to manual strangulation (throttling).

Let us now come to the point raised by the defence that whether there was possibility to cause smothering and throttling at the same time by a single person.

To consider this point we have to minutely follow the opinion.



It was opined that *the death was due to the effects of manual strangulation associated with smothering and the manner of death was homicidal*. The word “associated” carries a weight in this opinion. By putting the said word, the autopsy team wanted to mean that prime cause of death was throttling (manual strangulation) but smothering was also done. They never opined that smothering and throttling took place at the same time.

Let us now consider what is meant by the term *smothering*. In smothering, respiration is prevented by the closure of the mouth and the nasal opening end. In all cases of smothering, death is due to asphyxia. Homicidal smothering is caused by pressing the face and the nose of the victim by hand. In case of homicidal smothering caused by hands, there must be abrasions and contusions over and around the mouth and nose. The abrasions are usually crescent shaped nail scratch abrasions. There may be fracture of nasal cartilage and there may be bleeding from the nose with occasional bleeding from the mouth. The inner aspects of the lips will show abrasions, contusions or even laceration due to friction with the teeth. In case of face is pressed against some hard surface, there will be gross abrasion, contusions and even laceration on the skin around the mouth and the nose. Injury to the inner aspect of the lips, soft gum are more common. In case of homicidal smothering there may be signs of struggle or resistance over other areas of the body.

From the Ext-P-118(21) it appears that there were multiple abrasions over the face, nose and lips of the victim. Ext-P-119(21) & P-120(21) shows the multiple abrasions over the upper and inner side of the lips and presence of dental brace. The said photographs are the evidence that the face of the victim was pressed with hands and the victim tried to resist and there was friction and due the presence of metal dental brace, multiple abrasions took place over the upper and lower lips of the victim.

Ext-P-121(21) shows that there were multiple crescentic abrasions over both cheeks and the left side of the bridge of nose. All these injuries, no doubt were suggestive of smothering. The defence failed to place any confusion during the cross examination about the opinion of the autopsy team.

It is fact the smothering may cause death but in the instant case, smothering was not the only cause of death it acted as *an associate*. Once again, I want to stress on the word “associate”, which bears a

great meaning in this case and the same should be read/interpreted accordingly.

On the basis of the discussion mentioned above, one point is clear that smothering was done in this case.

Let us now again turn our eyes to the word *throttling*. I have already mentioned the observation of the Hon'ble Apex Court on the aspect of the signs of the incident of throttling. Now I want to discuss the same from some other angle. It is obvious that any death due to throttling must cause asphyxia. In that case there will be evidence of constriction of the neck with the help of fingers and marks of nail scratches and bruises caused by nails and fingertips will be there. If the assailant use his right hand from the front of the victim, usually there should be one large oval shaped bruise on the upper part of the right side of the neck of the victim, on the outer margin of which, there should be crescentic nail scratch. On the left side of the neck of the victim there should be multiple smaller bruises with smaller crescent shaped nail scratches on the outer margins of the bruises. In that case, on dissection there will be diffused extravasation of blood in the soft tissue of the neck and the extravasation is more marked underneath the bruises and abrasions and the surrounding tissues. The lungs in that case will be found congested.

All these findings are there in the postmortem report and the photographs [Ext.P-123(21) & P-130(21)] of the autopsy as proved in this case.

In this case, there were no injuries over the back side of the body of the victim and the same proves that the said victim was attacked from her front side.

It is fact that in case of violent asphyxial death due to compression of neck there must be bleeding from the eyes and nose and there must not be any internal injuries.

The photograph [Ext-P-124(21)] shows the same and the blood which came out from the eyes of the victim was not for any internal injuries, but it was due to asphyxia. There is no scope to disbelieve the version of the PW-21 on this point.

We must keep in mind that the PW-21 and PW-36 are the experts of their fields, and they have formed their specific opinions, which are not contradictory to each other.

It must be kept in mind that the evidences of the PW-21 and PW-37 are not the evidence of fact. It is opinion-based evidence and

that no one cannot import its own medical knowledge but the views taken by the authors of the books on Medical Jurisprudence can be considered by the court to weigh the findings of the post mortem doctors. I have borrowed the findings from the book of Modi, Dr. Apurba Nandi to compare the opinion of the autopsy team as well as the MIMB. I did not find any contradiction. At the same time, the defence also failed to place anything from which the said opinions can be viewed with suspicion.

The entire videography of the postmortem procedure was proved in this case and from the same all the signs of throttling by using the right hand from the front side of the body of the victim are found. The PW-21 specifically pointed out the external and internal injuries found by the team at the time of autopsy of the body of the victim. The said opinion of the PW-21 was corroborated by the PW-37 Dr. Adarsh Kumar, who was the Chairman of Multi Institutional Medical Board (MIMB) formed by Director General of Health Services Government of India. The said MIMB had examined the videography of the Inquest Examination, and the postmortem examination and the Board opined that that the findings of the autopsy team was correct and that they did not find any contradiction in between the inquest report and the postmortem report.

The PW-37 was thoroughly cross examined by the defence but they could not break the nut. Accordingly, the opinion formed by the autopsy team during the examination of the dead body of the victim is proved beyond the shadow of any doubt.

*The cause of death of the victim was obviously due to manual strangulation (throttling) associated with smothering.*

**8. Time of death**

- (a) The PW-21 deposed on the basis of the findings of postmortem examination that on examination of stomach and its contents of the victim, they found that it was congested and it contained 185 grams of partly digested food residue and they did not find any peculiar smell in the same. The CBI authority had asked the question to the said witness about the probable time of death. The said witness vide his letter dated 20.08.2024 opined that depending upon the quantum of partly digested food residue the time of death was within four to five hours after the time of last meal.
- (b) If we consider the evidence of PW3 and PW4, it will come out that that dinner was completed at around 12.45/1.00/1.15 am on

09.08.2024. Therefore, if we calculate the time of death relying upon the opinion of the PW21, it comes around 4.45/ 5.00/5.15 am.

- (c) The MIMB had also formed the opinion regarding the time of death and according to the said Board, the time of death might be from anytime between 12:00 night to 6:00 AM on 09.08.2024.
- (d) The exact time of death cannot be fixed by any method but only an approximate range of time of death can be given, because there are considerable biological variations in individual cases. Accordingly, the doctors always mention a range of time between which the death was presumed to have taken place. The quantity and digestive state of gastric contents also helps the doctor to ascertain the range of time of death. The stomach usually starts to empty within 10 minutes after the first mouthful has entered. The bulk of the meal leaves the stomach within two hours. A light meal of small volume usually leaves the stomach within 1 to 2 hours after being eaten, a medium sized meal it requires 3 to 4 hours and a heavy meal requires 5 to 8 hours to leave the stomach. A carbohydrate meal leaves the stomach more rapidly than a protein meal because carbohydrates are reduced to a semi fluid state rapidly and a protein meal leaves the stomach more rapidly than fatty meal. Stomach contents which are identifiable by naked eye are usually ingested within two hour period.
- (e) From the state of digestion of food in the stomach and three approximate quantity of food substance emptied from the stomach it can be roughly guessed as to for which time span the person survived after taking the last meal. If the time of last meal can be known, the approximate time of death can be made out indirectly.
- (f) Normal emptying time of the stomach for an average Indian taking full meal is that half of the food passes through the pylorus (the part of stomach that connects to the small intestine) by 45 minutes to 1 hour, half of the rest by the next hour and half of the rest in the 3rd hour and the rest within the next hour. This means that for an average mixed diet, the total time taken is about 4-5 hours.
- (g) So, if we calculate the same in the light of the evidence of the P.W-3 and 4, the average time of emptying of stomach of the victim can be calculated and from the same the time of death can also be calculated in a mathematical way.

On the basis of the facts mentioned above, the P.W-21 and the PW-37 gave an opinion and I do not find anything in the evidences,

which can lead me to disbelieve the version of the said PWs about the approximate time span within which the death of the victim occurred. The PW-21 opined that the death occurred within 4-5 hours from the time of taking of last meal and the PW-37 described the time of death by mentioning a span of time. The time span calculated by the PW-21 and the same calculated by the PW-36 matched each other and the defence could not place any confusion in this regard.

So, the time of death of the victim was within 12 night to 6.00 am on 09.08.2024 or more particularly around 4.45/ 5.00/5.15 am on the same date.

**9. Whether there was any evidence of sexual assault on the victim**

- (a) As per the evidence of the PW-21, during PM, the team had noticed one bruise of 0.2 inch x 0.2 inch over right side of hymen at 10 O' clock position and one full thickness tear of hymen at 3 O' Clock position was also found with oozing of blood.
- (b) By placing the photographs [Exbt. P-128(21)] the said witness opined that those two were the photographs of the specific injury noted on external examination of hymen and the same showed that blood tinged moist secretion was coming out from introitus and the same signified insertion of something, which was hard blunt but the surface was smooth with some force to the vagina of the victim for which two injuries occurred.
- (c) It was also opined that the said injuries might also be caused due to penile penetration but no metallic foreign body with rough surface was inserted.
- (d) By placing the photograph marked as Ext P-129(21) the said witness opined that it signified that the victim was alive during the act of penetration/insertion. This was because in case of bruise/extravasation of blood, it required damaged/injured blood vessel with pumping heart.
- (e) The said view of the Autopsy Team was corroborated by the PW-37 being the Chairperson of MIMB and the defence could not place any doubt on the point that there were no such penetration/insertion into the vagina of the victim.
- (f) The Ld. Counsel for the accused stressed upon the portion of the evidence of the PW-21, when he deposed in the fashion that "*It signifies insertion of something, which was hard blunt but the surface is smooth with some force for which two injuries occurred*"

It was submitted that though the accused was in the custody of the investigating agencies, but no such article *which was hard blunt but the surface is smooth*, was recovered and the same placed the case of the prosecution on some weak base.

It was the argument that as no semen was found over the body of the victim and as no male pubic hair was found over the person of the victim, how the incident of penile insertion took place.

Reliance was also placed on the opinion of PW-21 when he had opined that penile insertion might cause such injuries.

The possible explanations of not getting semen in case of penile insertion was given by the PW-21 and 36. I have considered their opinions. They could not say specifically whether penis was inserted or not. Both the said experts stressed on the point that there was insertion of any object *which was hard blunt but the surface was smooth* and that the said insertion was made with force and the injuries found over the genitals of the victim, were for that forceful insertion. They have pressed on the point of forceful insertion.

I have considered the injuries noticed by the autopsy team during the post mortem examination. It appears that there were two injuries over hymen and there was oozing of blood from one of the injuries, which was in 3 o'clock position.

If we consider the definition of "rape" as per the provision of S.63 BNS, we shall find that the legislature also stressed upon the word *insertion* or *penetration* of penis or any object or part of body not being penis to the vagina, urethra, anus of a woman.

The word *penetrate* according to the Oxford Dictionary means "*find access into or through, pass through*". In order to constitute the offence of *rape*, the most important fact to be placed by the prosecution is that there was medical evidence of penetration.

Conjoint reading of the evidence of the PW-21 and 37 it can safely be concluded that an incident of penetration of something was there in this case and the same may not be the penis and that the said substance was not any metallic item with rough surface.

The nature of the injuries found over the body of the



victim also proves that the insertion was done by a single person and in the same transaction. There was no evidence of severe multiple penetration, which is the *sine qua non* for any incident of gang rape.

Let us now consider again the specific post mortem injuries noted by the doctors on dissection of the body. The team had noticed extravasated blood  $\frac{1}{2}$  inch x  $\frac{1}{2}$  inch under scalp tissue over left side of coronal suture, extravasated blood 1 inch x 1 inch over left posterior parietal areas of scalp tissues, extravasated blood  $\frac{1}{2}$  inch x  $\frac{1}{2}$  inch diffused under left side temporal areas scalp tissue, extravasated blood 1.5 inch x 1.5 inch diffused under right temporal areas scalp tissue. To establish the said injuries the PW-21 relied upon the photograph marked as Ext-P126(21). According to the autopsy surgeons, those particular injury marks signified that it was caused by pushing the head repeatedly with force against any background - hard or not so hard. The term *hard or not so hard* was also explained by the PW-21. As per his opinion, it means that it might be ground, wooden floor, like bench, chair but not any metal floor or cement floor. As per the opinion of the PW-21, if it would be any such floor, then there must have been some laceration which would be visible externally. So, it might be that there was any cushioning effect.

Let us now go back to the Ext-P47(14) and more particularly the photograph no. 17 & 20. It appears the victim was lying on the mattress on the wooden dais and the thickness of the mattress was such from where it can be said that if the head of the victim be pushed several times with force, there was no scope to get direct contact with the wooden dais. The term used by the PW-21 (cushioning effect) is proved from these photographs.

Therefore, one thing is clear that the head of the victim was pushed with force several times.

The question may crop up as to why the victim did not give any resistance at the time of the said insertion. It is established that there were smothering and throttling and obviously the victim went to a moribund condition, and she had

lost her capacity to resist. If the injuries mentioned above in the coronal structure be considered in conjunction with the other injuries, it will be very much clear that the victim tried to resist but could not be able to release her from the lust of the accused.

It is fact the person, who was the best witness of this case, was the victim herself but there was no scope to get her voice. So, we must analyze everything on the circumstances vis a vis the medical evidence.

I think that the evidences discussed by me are enough to show that there was an incident of penetration/ insertion and the same had fulfilled the basic requirement of Sec.63 BNS and it can be said that rape was committed upon the victim by only one person and that there were no evidence of gang rape.

**10. Whether the assailant was a single person or group of persons**

- (a) During argument, the Ld. Counsel for the accused as well as the Ld. Counsel for the Complainant submitted in the same tune that the injuries found over the body of the victim can only be done by a group of persons. The Ld. Counsel for the complainant submitted that it was the reason for which they have prayed for re-investigation of the incident in their written notes of argument. The specific point of the complainant was that the investigating agency did not produce all the persons behind the incident and the present accused was made a scapegoat to save face.
- (b) In reply, the Ld. PP CBI argued that during investigation they got the direct involvement of this accused only with the incident of rape and murder of the victim and they have relied upon the opinions of the PW-21 as well as MIMB and the PW-37 to the effect that the incident of rape and murder of the victim was caused by single person.
- (c) I have considered the argument and the counter argument of both sides. I have also perused the post mortem report, the opinion of the PW-21 and the still photographs snapped during the post mortem examination. It was the opinion of the PW-21 that defence injuries were found over the mouth, nose and neck and the said injuries were in a localized area. It was also the opinion of the said PW-21 that most of the external injuries were simple in nature. By placing the still photograph [Ext-P-125(21)], it was opined by the PW-21 that the same was the proof that the said injury was caused

by compression of right hand thumb and it was not visible from outside and that only on dissection extravasation of blood was found and the same was synonymous to bruise or contusion. By showing the Ext-P-130(21) the said PW-21 explained that the said photograph showed that there were nail marks of multiple fingers, and it was possible when a person caused throttling by using the right hand. On the basis of all these, it was opined that only one person was behind the said incident of rape and murder of the victim.

- (d) The MIMB and more particularly the PW-37 also supported the version of the PW-21 and the said Board also reached the opinion that the incident was done by a single person.
- (e) I have perused the opinions of the PW-21 and the PW-37 and also perused the still photographs of the post-mortem examination. I have also considered the nature of the injuries over the facial areas of the victim and that the said injuries were resistance injuries. I have also considered the opinion of the PW-21 that the nature of the said injuries was simple. From the PM report as well as the reply of the PW-21 during the cross examination it appears that there were no fractures in the body of the victim. This evidence also suggests that the assault was done by a single person.

*On the basis of the discussion above, I am of the view that the victim was attacked by a single person and the said person committed the smothering and throttling as well as penetrative sexual assault.*

**11. Who was the said person who had committed such brutal act of rape and murder of the victim:-**

- (a) From the evidence of the PW-31 we came to know that on 09.08.2024 at around 10.30 am he came to know on visiting the Seminar Room that an incident of unnatural death of one lady doctor took place.
- (b) He also deposed that at 09.30 pm on that day while he was on duty at the R.G.Kar Hospital Police OP, he had noticed that the police officers were scanning the CCTV footages of various cameras installed in the campus of the said hospital and that one Civic Volunteer posted at R.G.Kar Hospital identified this accused. The said footage was proved as Mat Ext.LX and the said witness identified this accused in the said footage when a particular frame of the entire footage for the time span 04.00 am to 05.00 am dated 09.08.2024 was shown to him. He had identified the accused in the 3<sup>rd</sup> floor of the Emergency Building (Chest Department) in the said

footage.

- (c) This footage was also shown to the accused when he was asked questions during his examination u/s 351 BNSS and the accused admitted that the person shown in the footage was he.
- (d) The accused admitted that in the intervening night of 08.08.2024 and 09.08.2024 he went to the R.G.Kar Hospital. He specifically admitted the fact about his entry and exit at the Chest Department situated in the 3<sup>rd</sup>. floor of the Emergency Building, which was clearly visible in the said footage and he also admitted on the basis of the said footage that when he took entry at the said Chest Department he had one helmet in his hand and one Bluetooth device earphone was hanging from his neck but when he came out, the helmet was found with him but the earphone, which was hanging from his neck at the time of his entry, was not found. He also admitted his presence at the Chest Department, R.G Kar Medical College and Hospital situated in the 3<sup>rd</sup> floor of the Emergency Building, from 04.03.31 am to 04.31.40 am on 09.08.2024.
- (e) From the evidence of PW-33, Ex-Civic Volunteer, it appears that he and the accused went to the red-light area of Sovabazar and consumed liquor and then they went to the red-light area of Chetla and again consumed liquor. The accused admitted the fact of consumption of liquor only at Chetla but he denied the fact of consumption of liquor at Sovabazar. According to him, he had proceeded to Chetla through Sovabazar but did not stop there at Sovabazar.
- (f) The PW-33 deposed that he alongwith the accused Sanjay Roy went to R.G.Kar Hospital from Chetla and Sanjay dropped him at the gate and entered into the hospital premises. The said witness identified the connected CCTV footage (Mat Ext-LV) in that regard.
- (g) The accused, during his examination u/s 351 BNSS was asked the same by showing the said CCTV footage and the CCTV footage which was proved and marked as MAT Ext-LX and he admitted the fact that he came back to R.G.Kar Hospital with the PW-33. It was also his admission during his examination that during the time slot 3.00 am to 4.00 am dated 09.08.2024 he along with the PW-33 were seen to take entry into the R.G Kar Hospital and that he had parked the bike vide No. WB01-AE-5021 and took entry into the Trauma Care Centre and came back therefrom at 3.36.15 am on 09.08.2024.
- (h) The accused never denied the truthfulness of the said footages.
- (i) The DVRs of the relevant CCTVs were properly seized either by Kolkata Police or the CBI alongwith the internal hard discs from the authority and

Certificate u/s 63 BSA in proper format were also procured. The said DVRs and the hard discs were sent for forensic examination and the report was placed, which shows that the footages were continuous and the concerned authority (PW-29) did not opine that any tampering took place in the said footages. Over this aspect, reliance is placed on the evidence of the PW-29 (L.Nato Singh) and Ext-P-152(29),P-156(29). The said internal hard discs containing the entire footage, after examination was placed before the court.

- (j) On perusal of the procedures adopted by the investigating agencies regarding the seizure of the DVRS, I did not find anything to draw any adverse inferences. I also do not find anything in the expert opinion, which can lead me to hold that the said CCTV footages were not genuine.
- (k) Moreover, when the person concerned (the accused) did not raise anything regarding the said footages and when he admitted his presence, the said footages can be considered as genuine.
- (l) So, from the evidence, reply of the accused during his examination u/s 351 BNSS, the presence (entry and exit) of the accused at the Trauma Centre on 09.08.2024 at 3.36.15 am is proved.
- (m) Entry and exit of the accused in the Trauma Centre was also corroborated by the Security Guard on duty at the Trauma Centre on 09.08.2024 during 3.00 am to 4.00 am (PW-32 Jogendra Shaw). The connected CCTV footage for the period 03.00 am to 4.00am was shown to the said witness and he also identified the entry and exit of the accused at the Trauma Centre.
- (n) This evidence also came in support of the prosecution to show that the accused was present at the R.G Kar Hospital premises in the early hours 3.00 am on 09.08.2024.
- (o) During the examination of the accused u/s 351 BNSS specific part of the evidence of the PW-31 (ASI Samar Paul) was placed and he was asked that on 09.08.2024 at 04.03.31 am he was spotted in the CCTV installed at the entry point of Chest Department situated at 3<sup>rd</sup> floor of the Emergency Building and the said CCTV footage (Mat Ext LVII) was shown to the accused and he was informed that from the said footage it appeared that the accused took a right turn from the point where the CCTV was installed and took entry into one corridor and at that time one helmet was in his hand and one ear-phone was hanging from his neck and he replied on perusing the said footage that it was he, who was found in that particular CCTV footage and his helmet was with him and his Bluetooth earphone was found hanging from his neck. He admitted that he was found in that

footage taking his right turn and followed a corridor and then it was found that he took entry to somewhere to the left side which was not within the coverage area of that particular CCTV.

- (p) This CCTV footage along with the original DVR and internal hard disc was examined by PW-29 and he opined that there was no tampering of the said footage.
- (q) Therefore, the entry of this accused at the 3<sup>rd</sup> floor (Chest Department) R.G.Kar Hospital at 04.03.31 am on 09.08.2024 was established by the CCTV footage and the admission of the accused during his examination u/s 351 BNSS.
- (r) Question may come why the accused was asked about this particular frame of the CCTV installed at the Chest department. The reply is that the scene of crime situated in the close proximity of the said CCTV but outside the coverage area and as per the reports of experts the time of death of the victim also was during this period and that this accused was seen there. So, to my understanding, those were the incriminating materials and as such those were placed to him. He was cautioned that the replies may or may not be used for or against him and even after understanding everything he gave the reply by supporting the contents of the said footage. So, the said version of the accused became relevant in this case.
- (s) He was shown the said footage again and his exit from the said area was shown to him, which was 04.31.40 am on 09.08.2024. He was asked that at 04.31.40 am on 09.08.2024, he was found to come out and again he had turned around to the direction from where he was coming and subsequently he was again located in the CCTV to come out and at that time the helmet was found in his hand but the said Bluetooth earphone was not found hanging from his neck and that after coming out he had turned to his left and went outside the coverage area of the said CCTV and his reply was that at the time of his exit, he was found to come out, with his helmet but the Bluetooth earphone, which was found hanging in his neck at the time of his entry, was not found at the time of his exit.
- (t) During his examination u/s 351 BNSS, he again admitted his presence at the Chest Department, RG Kar Medical College and Hospital situated on the 3<sup>rd</sup> floor of the Emergency Building, from 04.03.31 am to 04.31.40 am on 09.08.2024.
- (u) If the relevant evidences as well as the replies of the accused during his examination u/s 351 BNSS be placed on the same table, the presence of this accused in the said area is established.



- (v) The Ld. Counsel for the accused attracted my attention to the presence of two other persons found in the said footage. I have perused their movements too. The accused went a far away from the place from where the said two other persons were found to come out and take entry.
- (w) I have also carefully examined the entire footage prior and after the entry and exit of the accused in the coverage area. I did not notice anything which might be exceptional, or which can show that there were movement of so many persons at that time zone. Everything was found to be normal.
- (x) The accused was asked to explain the circumstances why he was there at that wee hour. His reply was that he went to the Trauma Centre as the operation of one of Civic Volunteer was going on. Then he went to the Emergency Building and straight went to the fourth floor but he did not find the patient there and somebody informed him that the patient might be at 3<sup>rd</sup> floor and then he went to the 3<sup>rd</sup> floor and went to the Male Ward but did not get his patient there and as he was very much tired, he started to wait there but as no patient came, he put his helmet and Bluetooth earphone over a bed there at the 3<sup>rd</sup> floor of Emergency Building (Male Ward) and when he came out, the helmet was with him but he forgot to bring his Bluetooth tooth ear-phone and that after coming out he could not locate the way to go out and as such, in the CCTV footage he was found to turn around and then he could locate the exist point and went out.
- (y) The question comes in my mind whether this explanation is cogent and convincing or not.

The accused admitted his presence in the 3<sup>rd</sup> floor of the Emergency Building of the R.G.Kar Hospital at the specific time zone. The points raised by him, were within his special knowledge. He stated that surgery of one of the Civic Volunteer was going on for which he went to the Trauma Centre. *He did not mention the details of the said patient or did not adduce any DW in that regard.*

He also took the plea that he was asked by someone that the patient might be at the Male Ward, 3<sup>rd</sup> floor and accordingly he went to the Male Ward and started to wait there by keeping his helmet and earphone on a bed.

The question comes up in my mind whether at that time there were none in the said Male Ward, who had seen the accused to take entry and to come out. Is it possible for any outsider to take entry into the Ward and to take rest there outside the surveillance of anyone.

The accused got the opportunity to adduce evidence on his behalf to establish his presence at the Male Ward as stated by him but he did not try

to call anyone as witness of this fact.

He took the plea that he forgot to bring his earphone from the said Male Ward at the time of his exit. He could not give any explanation of the whereabouts of the said headphone at the later stage. He stated everywhere that the headphone was hanging from his neck but when he had noticed that the same was not with him at the time of his exit, what steps did he take to get it back. The accused kept himself mum on this aspect and created a mist around him.

It was not the case of the prosecution that the accused was there at the Male Ward. Their case was that the accused was present at the scene of crime (Seminar Hall). It is the accused, who admitted his presence at the 3<sup>rd</sup> floor on that date and time as per the prosecution story and he had placed the story of his presence at the Male Ward at that particular time span.

Accordingly, as per the provision of S.109 BSA (S.106 Indian Evidence Act), the duty was upon the accused to establish that he was not present at the Seminar Hall but he was at the Male Ward and was taking rest. I have already discussed that it is very hard to believe that any outsider may go to any Ward of any hospital and can take rest on any bed. Whether the Wards of a hospital are rest rooms? I did not find any logical reasoning behind this stand of the accused.

Therefore, this part of his statement, which was also his defence, can only be proved by the accused, as the said fact was only within his special knowledge.

Moreover, the accused took this plea for the first time during his examination u/s 351 BNSS. His Ld. Counsel did not take this defence during the cross examination of the PWs.

So, it is the accused, who took the burden to prove that he was not present at the scene of crime, but he was present at the Male Ward.

In this connection, I want to rely upon the judicial pronouncement of the Hon'ble Apex Court as reported in (1974)4 SCC 193 (Sawal Das ~vs~ State of Bihar), (2006)12 SCC 254 (State of Rajasthan ~vs~ Kashi Ram), 2024 SCC Online SC 3683 (Nusrat Parwen ~vs~ State of Jharkhand).

In my view, the accused failed to avail the opportunity and as such the defence taken by him, did not stand beside him.

(z) I have already discussed about the cause of death, which was manual strangulation (throttling) associated with smothering and that there was incident of forceful penetration/insertion in the genitalia of the victim.

Now, we have to get the fact whether there was/were any other

convincing evidence which can tag the person behind such barbaric and brutal act.

It is clear that there was no eyewitness of the incident as the victim took place in the lap of her Creator and as such we have to consider this case only on circumstantial evidence.

We have to bear in mind the five golden principles to prove a case on circumstantial evidence.

In this regard reliance can be placed on the decision of the Hon'ble Apex Court as reported in (2024)3 SCC 481(Raja Naykar v. State of Chhattisgarh).

The law with regard to keeping reliance on the circumstantial evidence has very well been crystalized in the judgment of Hon'ble Apex Court as reported in (1984) 4 SCC 116 Birdhichand Sarda v. State of Maharashtra. The relevant paragraph is mentioned here:

*"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."*

The Hon'ble Court framed some Golden Rules, which are as follows:-

- (1) the circumstances from which the conclusion of guilt is to be drawn, should be fully established.
- (2) the facts so established, should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
- (3) the circumstances should be of a conclusive nature and tendency,
- (4) they should exclude every possible hypothesis except the one to be proved, and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

So, in the light of the said guidelines of the Hon'ble Apex Court, our duty is to scan the evidence accordingly.

From the Inquest Report, video footage of the Inquest proceedings, the entire video footage of the post-mortem proceedings, the photographs taken during the post-mortem examination, the opinion of the Autopsy team of R.G.Kar Hospital and the MIMB and more particularly the evidence of the PW-37 proves beyond the shadow of doubt the incident of brutal attack upon the victim. Oozing out of blood from the genitals of the victim also set an evidence of sexual assault upon her.

During the post-mortem, the swabs like anal swab, vulvar mop, nipple swab were collected and the same was sent for forensic analysis. From the evidence of the PW-15 it appears that blood sample of the accused was collected following all the norms and the accused admitted the same during his examination u/s 351 BNSS. The post-mortem blood of the victim was also collected.

These two blood were the source before the Forensic Expert for matching and to generate the DNA structure of the accused and the victim.

From the evidence of the PW-17 (Dr. Soma Roy) it appears that she had received good number of articles either from the Kolkata Police or from the CBI for analysis and for the sake of proper identification, she had marked them separately and the same was explained by the said witness in details during her evidence before this court. Her report was proved as Ext-P-56(17).

From the analysis of the nipple swab, it appears that it contained 100% DNA profile of the accused Sanjay Roy and there was obviously full DNA profile of the victim. But in the said nipple swab, very poor percentage of another female DNA was found.

The Ld. Counsel for the Complainant attracted my attention to the same. It was their argument that the said mixed DNA profile proved the presence of some other person particularly any female at the scene of crime. They strongly argued that this accused obviously was there but he was not the only person, for which the existence of another female DNA is found in the said profile.

It was the argument of the Ld. PP CBI that the PW-17 did not rule out the probability of contamination in the said swab and it was the reason to get mixed DNA in the said swab..

The Ld. Counsel for the Complainant relied upon this argument of prosecution and submitted that the Autopsy team did not take utmost care to collect the swab and this contamination proved that there were other persons at the scene of crime.

It is fact that during cross-examination of the PW-17 this point of mixed DNA profile was not raised by the defence for the reason best known to the Ld. Defence Counsel and it was argued by the defence for the first time on getting the written notes of argument filed by the complainant.

Now let us consider the standard operating procedure for collection of swab for the DNA analysis.

DNA typing, since it was introduced in the mid-1980s, has revolutionized forensic science and the ability of law enforcement to match perpetrators with crime scenes.

It is needless to mention that DNA is present in every nucleated cell and is therefore present in biological materials left at crime scenes. DNA can be successfully isolated and analysed from a variety of biological materials.

DNA evidence collection from a crime scene must be performed carefully and a chain of custody should be established in order to produce DNA profiles that are meaningful and legally accepted in court. DNA testing techniques have become so sensitive that the biological evidence, too small to be easily seen with the naked eye, can be used to link suspects to crime scenes.

The evidence must be carefully collected, preserved, stored, and transported prior to any analysis conducted in a forensic DNA laboratory.

It is the worldwide protocol that the following precautions must be taken at the time of collection of samples for DNA analysis like the swabs :-

- Avoid contaminating the area where DNA might be present by not touching it with bare hands or sneezing or coughing over the evidence.
- Using of clean latex gloves for collecting each item of evidence.
- Gloves and/or tweezers should be changed between handling of different items of evidence
- Package of each item of evidence be made separately to prevent potential transfer and cross contamination between different items.
- To air-dry bloodstains, semen stains, and other types of liquid stain prior to sealing the package.
- The samples be kept in paper envelopes or paper bags after drying and plastic bags should be avoided because water condenses in them, especially in areas of high humidity and moisture can speed up the degradation of DNA molecules.
- Packages should be clearly marked with case number, item number, collection date, and initialled across the package seal in order to maintain a proper chain of custody.

As per the evidence of the PW-17, she had received the packets in properly sealed and labelled condition and those were kept in proper packets. So, there was no question regarding the packaging of the materials.

The PW-17 deposed that during examination she had noticed that some items got contaminated. As per the submission of the Ld. Counsel for the Complainant, such contamination was done with malafide intention to make the appearance of this accused a clumsy one and to shield the others.

The duty of the court is to assess whether the contamination was done intentionally or whether it was accidental and whether the accused got any advantage for such contaminated sample.

From the Ext-P-56(17) it appears that the profile of another female chromosome were found in the anal swab, nipple swab and vulvar mop collected at the time of post mortem examination of the victim, which was not of the said victim. The argument of the Ld. Counsel for the complainant was that some other female was involved in the incident of rape and murder of the victim, but she was kept behind the curtain intentionally and as such there was need of re-investigation of this case.

On the basis of this argument of the complainant, the Ld. Counsel for the accused submitted that the said DNA examination report cannot be relied upon and the accused cannot be tagged on the basis of the said DNA report.

In order to take decision over these arguments, I have perused the video clipping of the Inquest proceedings as well as the Post mortem procedure.

In the post-mortem video it was found that other female dead bodies were lying on the floor and it also came out that the tray where the post mortem of this victim was done, was not sterilised prior to the examination. It also appears that the concerned assistant (*Dom*) did not change the gloves or dress/ apron prior to taking of the swab or vulvar mop. It is also clear from the said video that the knives/scissors used for post mortem, were not sterilised. This shows that the proper protocol was not followed due to lack of model infrastructure at the post- mortem centre to conduct the ideal post-mortem. The doctors, who have conducted the post-mortem had no other option but to do their duty in such poor infrastructure. The said video shows that there was every possibility of contamination in the said post-mortem room and for that contamination, the doctors, who had conducted the post mortem, should not be blamed.

From the DNA analysis report of the nipple swab it appears that it contains the full DNA profile of the accused as well as of the victim and very negligible profile of another female. Presence of full DNA profile of the accused in the said nipple swab means that the accused was in contact with the body of the victim.

Opportunity was given to the accused to explain the circumstances during his examination u/s 351 BNSS. The accused wanted to explain that when he was in PC, he was beaten and saliva came out. On the basis of the said statement of the accused, the Ld. Counsel for the accused argued that the saliva of the accused might be implanted over the breast of the victim.

This argument is too weak to consider. This is because, when the accused was detained by police, the body of the victim was burnt into ashes. Obviously there was no scope of implantation of saliva of the accused.

In the vulvar mop several mixed profiles was found.

In that regard, I again want to rely upon the video clipping of post-mortem procedure when this vulvar mop was collected. It appears that the same was collected in a gauge piece taken from a stack of gauge kept open in the autopsy room. In my view, the procedure adopted is enough for highest degree of contamination.



This case became very sensational and as such the post-mortem examination or collection of samples became vital. This case is an eye opener, and it leads us to hold that there was no scope for the doctors to conduct the post-mortem in the manner which is ideal. In my view, the doctors are bound to do their duty knowing it fully well that there was lack of infrastructure. Before raising fingers to them, it must be considered.

On these grounds I am not inclined to accept the argument of the Ld. Counsel of the Complainant on the point that the autopsy surgeons intentionally sent contaminated sample for DNA analysis or the accused was not at all involved.

Per contra, the accused failed to place any cogent ground how his full DNA was found matching in the nipple swab of the victim.

The PW-17 had also examined the jeans pant and footwear of the accused and she got stains of blood on the same.

It was the opinion that the said blood matched with the blood of the victim. Obviously, the burden is on the accused to establish what was the circumstances for which the blood of the victim was found in the wearing of the accused.

This was placed to the accused during his examination u/s 351 BNSS and the accused placed the explanation that while he was in police custody, the officers of Detective Department went to his barrack and examined his wearing and the same was identified by him through video call.

This point was not taken during the cross examination of the PW-49 and the accused had placed it for the first time during his examination. There is no evidence from the side of the accused on this point.

Accordingly getting of stains of blood of the victim over the wearing and footwear of the accused goes against the accused as the said accused failed to place reasoned circumstances of the same or any incident of implantation by the investigating agencies.

Let us now consider the DNA analysis of the hair strands as was recovered from the said dais of the Seminar Room.

The evidence of the PW-10, the video clippings of the Inquest process, the photograph no.9 of Ext-P-47(14), evidence of the PW-39, evidence of the PW-12, Ext-P-181(39), item no.14 of the Seizure list dated 09.08.2024, evidence of the PW-24 show that there were bunch of hairs on the bed sheet over which the body of the victim was lying.

According to the evidence of the IO, the said hairs were seized and sent to the CFSL for forensic examination.

As per the evidence of the PW-17, she had noticed that there were long and short hair strands in the sealed packet sent to the CFSL for forensic analysis and that the said hair strands were separated by the said PW-17 prior to the examination of the same and the said PW marked the said long and short hair strands as Ext-F1 & F2. As per the examination report, DNA profile of the

said short hair matched with the DNA profile of the accused and the long hair strands matched with the DNA profile of the victim. From the evidence of the PW-17 and the Ext-P56(17), no mixed DNA profile were found during the examination of the said hair strands.

As it is one of the vital incriminating material against the accused, question was placed to him during his examination u/s 351 BNSS. The reply of the accused was that while he was in the custody of police at Lalbazar, he was beaten by the police team and his hairs were pulled. The Ld. Counsel of the accused raised the suspicion that the said hairs might be planted to implicate the accused falsely. It is surprising that no such suggestive question were put to the concerned officers of Kolkata Police during the cross examination of the PW-49. It was also not placed anywhere during the cross examination that the accused was beaten while he was in the custody of police. From the case record I did not find anything that such allegation was ever placed before the Ld. ACJM Sealdah during investigation process.

Accordingly, there is enough scope to hold that such defence was prepared by the accused after hearing the evidence of the witnesses and that the same had no base at all.

Moreover, from the date and time stamp of the specific photographs [Ext-P-47(14)] it appears that the same were snapped on 09.08.2024 at 16.56 hrs and at that time the accused was not under detention of Kolkata Police and as such the plea that while he was in custody, his hairs were pulled and the same were planted, do not match. The defence could not place any confusion over the date and time stamp of the said photographs. Side by side the PW-10 and the PW-12 also have mentioned in their evidence about the existence of the hairs on the bed sheet. The Ld. Counsel for the accused argued that the PW-12 mentioned that she had noticed long hair strands and did not mention that she had noticed any short hair strands. It was also placed that the PW-39 being a forensic expert mentioned locks of hair and did not specify any short or long hairs separately. Based on the same the Ld. Counsel for the accused argued the said hair strands created confusion.

On this point my observation is that from the photograph no.9 of Ext-P-47(14) in naked eye existence of bunch of long hairs are prominent. It is very much difficult to identify any short hairs in the said bunch. The camera also took the snap of the said bunch of hairs and the PW-39 collected the said bunch of hairs alongwith the other articles on 09.08.2024 after holding of the inquest. The said bunch of hairs were sent to the CFSL and it was opened by them and long and short hair strands were found and the same were separated.

I did not find any inconsistency in the related evidences.

Getting of hairs of the accused at the place where the body of the victim was found, leads us to hold his presence. The burden was shifted to the accused to state anything against it. The accused failed to discharge his burden.

Matching of the DNA profile of the accused in the hair strands recovered from the spot proved the presence of the accused with the body of the victim.

I kept reliance on the observation of the Hon'ble Apex Court as reported in (2014)2 SCC 576 (Nandlal Wasudeo Badwaik vs. Lata Nandlal Badwaik.

It was the observation of the Hon'ble Court that genuine DNA test is scientifically accurate. In the instant case, the process of DNA analysis was not challenged and it is not the case that the result of the DNA test is improper and, therefore, we have to proceed on an assumption that the result of the DNA test is accurate.

I also kept reliance on another decision of the Hon'ble Apex Court as reported in (2001) 5 SCC 311(Kamti Devi vs. Poshi Ram)

The accused was placed to the SSKM Hospital, Kolkata for his medico legal examination and the PW-8 (Dr. Biswanath Saren) had examined the said accused. Videography of the entire medico legal examination procedure was done.

The opinion of the said doctor was that he had noticed abrasions over the facial region and left thigh of the accused and fingers of left hand. The specific opinion of the said PW-8 was that the said injuries were due to friction with rough surface and friction with pointed tip of pin like object or with nails of finger or toes.

The said report alongwith the video footage of the said medico legal examination of the accused, was sent to the MIMB and the PW-37 had proved the said report. It was the opinion of the said MIMB that the said injuries were due to resistance from the end of the victim.

The PW-8 opined that the accused sustained the said injuries within 24 hours to 48 hours from the time of examination. The MIMB and the PW-37 opined that it was within 24 to 36 hours from the time of examination.

According to the PW-8 the accused was examined at 12.00 pm on 10.08.2024. so, if we consider the opinions of the PW-8 and the PW-37, the time of receiving the injuries was 09.08.2024 after midnight.

As the opinions of the said PWs placed some incriminating circumstances, the accused was asked on this during his examination u/s 351 BNSS. The accused submitted that he went to Salua with the team and the PW-30 and PW-20 were also in the said team and there he (the accused) tried for a mock rock climbing and fell down and sustained the said injuries.

Obviously this fact was within the knowledge of the accused when the PW-8 was examined. Let us see what defence was taken during the cross examination of the said PW. It was suggested that the injuries found over the fingers and hands of the victim might be caused due to fall from bike and that the injuries in the facial region might be caused due to punch without using

gloves. The doctor also opined that landing of punch on face with/without gloves would cause blunt injuries and not scratch marks. It was also the opinion of the said doctor that there was possibility of scratch mark by nail over face if there would be punch by exposed thumb.

The defence of the accused as per the cross examination, is that the injuries over his hand and fingers were due to sudden fall from bike. The explanation of the accused was that all the injuries noted by the PW-8 were due to fall on hard substance during mock rock climbing at Salua.

Defence taken during cross examination and the same during the examination of the accused u/s 351 BNSS are different from each other. The defence failed to place any incidents that the accused fell from the bike on any particular day and sustained the injuries. The accused also did not take such plea of fall from bike on any day prior to his examination by the PW-8, during his examination u/s 351 BNSS. Similarly the accused failed to place any evidence to establish that he tried for mock rock climbing at Salua and sustained injuries. It is fact that the PW-30 and PW-20 supported the version of the accused that he went to Salua with them and came back on 07.08.2024 at night but no question were put to them about any such accident of the accused at Salua.

Accordingly, the defence taken by the accused about fall from bike or sudden fall during mock rock climbing at Salua, were not established.

It was the case of defence that the injuries found over the facial region of the accused was due to punch during boxing practice without gloves. The opinion of doctor was that in case of punch with/without gloves, blunt injury will be there, and the doctor ruled out the possibility of any scratch marks.

The accused did not take the plea of any such boxing practice during his examination u/s 351 BNSS. This means that the accused and his Ld. Counsel were swimming in a whirlpool and could not understand what would be the appropriate defence. *All the said defence went against the accused.*

The case of prosecution was that the abrasions found over the facial region of the accused were due to resistance from the victim and the same were caused due to use of finger or toes.

On the other hand, the case of the accused was also that the injuries in facial part were due to scratch by nails, but it was caused at the time of boxing practice without gloves.

So, both sides' case was that the injuries were due to scratch with nails, but the aspects were different.

During argument my attention was drawn to the evidence of the PW-17 and the Ext-P-56(17). It was the argument of the Ld. Counsel for the accused that nail cutting and scrapings of the victim were collected during the post mortem examination and presence of blood of the victim was found there but no other biological materials were noticed by the PW-17 and it put a big

question mark over the case of the prosecution that the injuries found over the facial region of the accused were due to resistance from the end of the victim.

The submission of the Ld. PP was that from the injuries it appears that the same were scratches and the depth of the injuries were not so deep for which any tissues could be accumulated in the nails of the victim and for that reason, no tissues were found in the nails and accordingly no biological elements were found therein.

I have considered the arguments of both sides. It is fact that presence of biological evidence, like tissues must be there for any forensic analysis. The Ld. Counsel for the accused got the copy of the report of CFSL long ago and during cross examination of the PW-8, they did not think it proper to ask question whether there was scope of getting tissues in the nails of the victim in case of injuries over the facial region of the accused. In absence any such queries how it can be considered that there was scope of accumulation of tissues of the accused in the nails of the victim. Moreover, on scrutiny of the video footage of the injuries over the facial region of the victim, it is very hard to hold that in case of such type of resistance wounds, there was scope of accumulation of tissues in the nails of the victim.

So, I am of the view that absence of any human tissues in the nail scrapings of the victim did not become fatal for the case of the prosecution or to establish that the said injuries were not related with the present case.

On the basis of my discussion mentioned above, the CCTV footages, the version of the accused during his examination u/s 351 BNSS, the contradictory defence pleas without any evidence, the DNA examination reports points the arrows towards this accused only behind the incident of rape and murder of the victim and the involvement of any other person behind the said incident can easily be ruled out.

Some other points:-

It was admitted by the accused on perusal of the CCTV footages proved in this case, that on 09.09.2024 he entered in the Trauma Centre, he had the Bluetooth earphone with him and the same was with him at the time of his exit therefrom. He also admitted that at the time of his entry in the 3<sup>rd</sup> floor of the Chest Department of the R.G.Kar Hospital, he had the earphone with him but when he came out, it was not found. His explanation was that he went to the Male Ward and took rest there by keeping the helmet and earphone there and when he came out, he forgot to take the said earphone. I have already discussed why I did not keep reliance upon that defence of the accused.

As per the evidence of the PW-39 (Senior Scientific Officer, Mobile Forensic Unit, Kolkata Police), after removing of the dead body of the victim on conclusion of the Inquest, the said forensic team started to collect the relevant articles from the scene of crime and at that time they have noticed that one bluetooth earphone was there under the mattress and it was collected. Re-



covery of the said headphone was also found in the corresponding video footage and the same was seized by police.

From the evidence of the PW-49 it came out that the mobile phone of the accused was seized and the same was shown to the accused during his examination u/s 351 BNSS and the accused identified his mobile.

The PW-29 (Asst. Director & Scientist-C, CFSL) had examined various articles including the said mobile phone and the headphone. The said witness retrieved the data from the said headphone including its generic device name and MAC id. He had mentioned that at the time of examination of said earphone, only one connectivity between mobile of the accused and the said headphone was found. He had mentioned the date and time of connectivity between the two in the Meta data and it was his opinion that the said mobile and the Bluetooth earphone device were paired with each other. The said expert witness also mentioned that if the mobile phone and the blue tooth earphone device be kept in auto connectivity mode, there is no need of any further permission for connectivity. The said data was digitally kept in a pen drive and the same was proved as Mat Ext-LVI (29).

I have perused the said report of the PW-29. It appears that there was continuous pairing between the mobile phone of the accused and the Bluetooth earphone seized in this case from the scene of crime.

The accused stated during his examination u/s 351 BNSS that the said Bluetooth earphone was not of him but he identified his mobile phone and he failed to give any explanation as to how the said Bluetooth device showed continuous pairing with his mobile phone.

The plea of the accused was that his earphone was of "Boat" company whereas the Bluetooth device proved in this case was not of the said company.

During argument the Ld. Counsel for the accused attracted my attention to the cross examination of the IO (PW-49). The said IO deposed that when on the night of 09.08.2024, the accused Sanjay Roy was detained on suspicion, his mobile phone was taken from him and as the battery had no charge, the said IO took it to Tala PS and placed it for charging and subsequently the same was returned to the accused and on the next morning when the accused had confessed his guilt to police authority, he was arrested and his mobile phone was seized.

The argument of the Ld. Counsel for the accused was that there was probability that the said IO had paired the Bluetooth with the mobile of the accused at PS as the said Bluetooth earphone was under the custody of Tala PS at that time and the said IO retrieved the data from the said mobile of the accused at that time to implicate him. It



was the argument that the investigating agency first decided the person who would be tagged in this case and then they have planted the evidence against him.

In my view, this argument would get weight if one suggestive question would be placed to the said PW-49 by asking her that when she went to the PS with the mobile of the accused, she had tampered the data to implicate this accused to save the face of police administration. Unfortunately, no such question was placed to the said witness and this court did not get the explanation of the said PW-49. For that reason, the defence lost the scope to avail the fruits of this cross-examination.

The PW-29 was cross examined in full. During his cross examination no question was put about any destruction of data of the mobile of the accused or that the Bluetooth earphone was paired with the mobile of the accused only on 09.08.2024 or afterwards and that it was not paired earlier. In my view, this question was not put from the end of the accused as the Mat Ext LVI P-29 shows the continuous pairing of the mobile of the accused and the said Bluetooth earphone.

The question was raised by the defence how the said earphone went under the mattress-whether the accused kept it there after commission of the crime so that he could be easily detected?

To get reply of this question, we have to look into the photographs [Ext-P-47(14)]. The photographs number 7,17,20 & 34 show the thickness of the mattress and the condition of surface of the dais.

It shows that the said mattress was not so thick and was not heavy. Moreover the surface of the dais was very smooth and there was scope of less friction between the two. Which means that at the time of commission of the offence due to resistance from the end of the victim and use of force on her by the accused, there was scope of change of exact position of the mattress, and it might be that at that time the Bluetooth earphone of the accused went under the said mattress. Of course, this is an imaginary situation but I think that the same is not irrelevant.

No such situation was argued by the defence even on perusal of the said photographs.

So, getting the earphone under the mattress does not help the accused to get any advantage..

The PW-47 (Dy. Director Physics, CFSL) was examined and the said witness had examined the spectacle, panty and kurti of the deceased. It was his opinion [Ext-P-202(47)] that the lens of the spectacle was detached due to application of force. He also opined that the breaking of threads of the panty was due to dragging it down forcefully. His opinion ran in the fashion that tearing of both sides of

the kurti (waist side), was due to its sudden pulling up. The defence took the plea that due to long use, threads might come out from the panty but they did not place any suggestion as to how the kurti was torn.

The photographs [Ext P-47(14)] shows the marks of violence over the body of the victim and tearing of kurti is also visible. I do not find anything inconsistent in the said report of PW-47.

Moreover the jeans pant of the victim and her panty were found beside her body in such a position which shows that the same was dragged forcefully.

Relying upon the same, I am of the view that the fact of use of force upon the victim was properly proved.

The Ld. Counsel for the accused and the Ld. Counsel for the complainant placed argument in the same voice why no semen was found in the body of the victim or the mattress or blanket when there was an incident of rape.

To reply the same, I want to go back to the opinion of PW-21 and PW 37. They have categorically mentioned when there is no scope of getting any semen. Moreover, my humble question to the Ld. Counsels is that why they have considered that it was penile insertion/penetration. It might be insertion of any other article other than penis and in that case, there will be no possibility of getting any stain of semen.

The Ld. Counsel for the complainant as well as the Ld. Counsel for the accused placed the argument that the prosecution failed to clear the details of the white thick viscid liquid inside endocervical canal, which was found on examination of internal genitalia. The evidence of the doctor was that the same was collected by swab. On examination, no semen was traced out therefrom.

The PW-21 specifically opined that the weight of internal genitalia, more precisely uterus and ovary, was noted as 151 gm and the specific portion of the video footage was also shown during the evidence.

The nature of the said liquid was not ascertained but it was ascertained that the same was not semen.

## **12. The place of occurrence/ scene of crime**

- (a) It was the argument of the Ld. Counsel for the complainant that the Seminar Room was not the scene of crime or the place of occurrence. They have relied upon the SOC inspection report dated 11.09.2024 [Ext P-201(46)].

In the said report in Page 12 it was mentioned that during inspection, the team did not get any evidence of possible struggle over the mattress and adjoining area of the Seminar

Room. It was also mentioned in the said report that save and except the wooden stage, no biological stains could be detected on the floor surface of the said Seminar Room.

On the basis of the said observation of the CFSL team, the argument was that absence of any struggle over the mattress means that the offence was not committed there.

In reply to this argument, I want to bring it to the kind notice of the Ld. Counsel of the complainant that the team of CFSL had visited the said place on 14.08.2024 ie 6 days after the date of commission of the offence. It appears from the evidence on record that during this time several footprints were there in the said Seminar Room for the purpose of investigation. The bed sheets, blankets and other materials available, were collected by the Forensic Team of Kolkata Police and the same were seized accordingly on 09.08.2024. Sample cotton was collected from the mattress on the same date. The said bed sheets, blankets were sent to CFSL for forensic analysis.

The first time view of the said Seminar Room after the incident, came to our notice when the photographs [Ext-P-47(14)] were exhibited in this case.

It is fact that copies of the said photographs were not supplied to the Ld. Counsel for the accused or the Ld. Counsel for the complainant as the face and body parts of the victim were exposed there but they got the scope to examine the same at the time of evidence.

If we examine the said photographs carefully, the said bed-sheet, on which the victim was sleeping, is itself an evidence to show the marks of struggle.

The said photographs as well as the video footage of the Inquest procedure shows the signs of brutal attack upon the victim.

It is my humble opinion that if the written note of argument by the complainant would be prepared by taking into consideration of all the evidences, this point would not come.

Let us consider the scene of crime from another angle.

The victim was asleep, and she was attacked from her front, and the said attack was beyond her imagination and naturally degree of resistance was poor. The nature of force used by the accused already established from various documents. Presence of this accused over the body of the victim was also established.

So, my question is that why shall not we consider the body of the victim as the scene of crime?

The Ld. Counsel for the accused as well as the Ld. Counsel for the complainant submitted that if there was a struggle, how the personal belongings of the victim remained as it was.

I again humbly request the Ld. Counsels to rethink on the basis of the said photographs [Ext-P-47(14)]. I want to give stress on the photographs no. 6,11,18,19 and 20 of Ext-P-47(14).

The photograph no.6 shows that the mobile, laptop, exercise book of the victim were lying at the right side of the head of the victim. It is fact that the same were in undisturbed condition. This is because, those were of flat surface. But the water bottle was found in the said picture as lying on the dais. It is also found that one red blanket was kept in properly folded manner at the head of the victim. In the photographs I did not find existence of any pillow and it seems that the folded red blanket was used as the pillow.

From the evidence of the P.W-3 it appears that he had seen the victim to sleep by covering a red blanket. In photograph no. 5 and 20 it is found that one red blanket was lying outside the mattress area in such a condition from which any person of common prudence will deduce that the same was forcefully pulled from the body of the victim and was thrown.

It was the argument that the bag of the victim was found in undisturbed condition and same is unusual. Again I want to request the Ld. Counsels to peruse the photographs. The backpack of the victim was kept on the table beside which the victim was sleeping on the dais. So, there was no probability of any disturbance to the backpack of the victim and as such I am not at all inclined to accept this argument.

On scanning of the evidence on record in the light of the relevant exhibits, I have no confusion in my mind to hold that the Seminar Room, more particularly the dais again more precisely the mattress on the dais and finally the body of the victim was the scene of crime.

- (b) *Presence of the accused there was established properly and from any angle presence of any other person(s) was established.*
- (c) It was argued by the Ld. Counsel for the complainant as well as the accused that to take entry into the said Seminar Room through the way shown in the sketch map, one has to cross the Nursing Station situated in the Chest Department and why no person, who was / were on duty at the Nursing Station, were called upon as witness.

From the evidence of the doctors of the hospital, who had turned up, it appears that the Nursing Station was the place

of joining of duties of the doctors and nursing staff and from the duty roster it appears that the wee hours of 09.08.2024, when the footprint of the accused was found in the Chest Department, was not the time of joining of any duties. So, the question crops up whether 24 hours presence of any person at the Nursing Station was mandatory or not. The prosecution had examined good number of doctors or administrative staff and the Security Guards of the R.G Kar Hospital but the defence did not put any question to any of them to establish that the nursing staff must be there at the Nursing Station for 24 hours.

In absence of any such queries or evidence, it is very hard to take into consideration such imaginary argument.

- (d) Questions were put to the relevant witnesses of the said hospital about the existence of ramp, other elevators, stair case to go to the said Seminar Room. The answers were affirmative but ultimately no suggestive question was put to any witness that any other person(s) entered into the said Seminar Room.
- (e) The argument of the Complainant was that the Seminar Room was not the PO and they also claimed that there were other ways including the lift no. 2 to 6 to reach to the said Seminar Room.

My humble question to the Ld. Counsel is when they were sure that the Seminar Room was not the PO, why they have stressed on the entries into the said specific room.

- (f) There is no suggestive question that the victim was murdered elsewhere and the body was brought to the Seminar Room. In absence of any such endeavor on the part of the accused, how can I consider their view.

**13. Mobile tower location of the accused**

Prosecution had produced the CDR of the mobile number of the accused by way of evidence of the PW-27[Ext-P-142(27)]. From the said CDR the tower location of the mobile set of the accused was tracked and the location of the accused in the vicinity of R.G.Kar Hospital was established.

The accused never denied his presence at the said hospital premises on 09.08.2024. So, this CDR also became an corroborative piece of evidence regarding the presence of the accused.

**14. Relevant points regarding the activities of police and the hospital authority**

Let us go to the evidence of the PW-24 (SI Subrata Chatterjee). The said witness started the UD case vide No. 861 of 2024 dated 09.08.2024 and he deposed that the related form was filled up after 11.30 pm on 09.08.2024.

From his evidence it came out that on 09.08.2024 he had joined duty at 03.00 pm and after his joining he had received a call from SI Chinmoy Biswas, who informed him that an incident of rape and murder of a lady doctor occurred at the said hospital. He stated that he went to the R.G Kar Hospi-

tal at 04.24 pm on 09.08.2024 and at that time, he had noticed that the FSL team was collecting samples from the spot and that he had seized the said articles by preparing the seizure list and the same were sealed and labelled and kept at the Malkhana of Tala PS.

He also stated that when he came back to PS, he had noticed that one written complaint was filed by the father of the victim and on the basis of the same Tala PS case No. 52 dated 09.08.2024 was started at 11.45 pm and said FIR was noted in the GD book vide GD No. 577 dated 09.08.2024.

It was his evidence that the death of the victim was declared at 12.45 pm and Tala PS had received the same at around 02.00 pm. To my utter surprise I have noticed that the said witness deposed in the fashion that one UD case number was kept blank in the concerned register of Tala PS vide No. 861 dated 09.08.2024 and that the PW-24 had collected the said number from ASI Debi Prasad Das and accordingly, the said UD case number was noted in the seizure list.

I am also surprised to note that the said process of seizure and starting of UD case was noted in the GD book vide GD No. 576 dated 09.08.2024 and the said entry was done by PW-24 after 11.30 pm on 09.08.2024.

From his evidence it also came out that another GD vide GD No. 542 dated 09.08.2024 was registered at Tala PS GDE book which contained noting of receiving of information regarding unnatural death of a doctor at RG Kar Hospital.

It was his admission that GD no. 452 dated 09.08.2024 was in his own handwriting and he had noted the same after coming back from the scene of crime by mentioning the time as 10.10 am, when he was not physically present at Tala PS.

This evidence of one SI of police is an eye opener that police stations are treating the cases in a very indifferent manner. It also shocking that the concerned SI did not hesitate to say such illegal acts standing in the witness box.

I did not expect such type of evidence from an officer in the rank of SI of Police. It shows how they have entertained the issue even when, the case became a sensitive one.

The evidence of PW-24 specifically shows that he had done an illegal act by making entry in the GD book under GD No. 542 dated 09.08.2024 by mentioning the time as 10.10 am though he was not present at the PS at that time.

It was his evidence that he was instructed to do so but he did not mention the names of anyone by whom he was instructed to do such an illegal act.

From his evidence it also came out that in the register of UD case, one case number was kept blank and that the same along with the related form was filled up by the PW-24 after 11.30 pm.



I do not find any reason why such illegal acts were done by the concerned officer one after another and why he did not raise any voice against the same. It is very hard to believe that an officer in the rank of SI was unaware about the implication of such illegal acts and before the court he proudly established his illegal acts again.

Being the court of law, I condemn such acts of SI Subrata Chatterjee.

The question may arise whether for such serious latches on the part of investigating wing, the case of prosecution will suffer or not.

The helpless father of the victim ran from pillar to post to get relief and to lodge the complaint.

It appears from the evidence of the father of the victim that they reached R.G Kar Hospital at 12.15 pm on 09.08.2024. The evidence of the PW-24 shows that the death certificate was received at Tala PS at 02.00 pm and the death was declared at 12.45 pm.

It is not clear to me why at that time, the parents of the victim were not allowed/advised to lodge a complaint and why the police authority kept the parents of the victim to wait till 6.00 pm to lodge the complaint.

It is not understandable to me why the police personnel of Tala PS kept everything behind a curtain and why such type of illegal acts was done by the concerned officer of Tala PS.

It also appears from the evidence that the accused was pampered by the ASI Anup Dutta and he gave him an unbridled power and the accused availed the benefit of the same and started a life which does not go with the lifestyle of any member of a disciplined force.

I also want to criticize the act of PW-49 Inspector Rupali Mukherjee. She was the Addl. OC of the W.G Cell and obviously was a senior officer and it can be presumed that she had sufficient knowledge to tackle the cases. Her action of taking the mobile from the accused on 09.08.2024 and keeping it at Tala PS unattended is very curious one. It is fact that from the evidence it was not established that she had done it with any ulterior motive or that she had tampered the data of the mobile of the accused. In a very peculiar manner by placing a very weak explanation she stated that the mobile was returned to the accused and then at the time of his arrest, the same was seized from him. It was her evidence that during this entire period the accused was under detention with the Kolkata Police. I did not find any reason behind this act of the said officer.

It is her good luck that the defence did not challenge her by placing some twisted questions but she failed to lead the investigation properly.

As the Commissioner of Police, Kolkata is the highest administrative authority of Kolkata Police, I think that this type of illegal/indifferent acts of the police personnel should be tackled by him in a very strict way so that no one can be escaped and I also think that proper training be given to the offi-

cers regarding investigation specially in the cases where it rests upon circumstantial/electronic and scientific evidence.

The PW-50 did not make any further specific investigation. She had just placed the evidences under magnifying glass, took steps for scientific analysis of the evidences and placed the evidences so far collected in this case either by the Kolkata Police or the CBI, to prepare a complete chain of events.

On perusal of the evidences I am of the view that if the officers of Tala PS would take proper initiative by applying their intellect at the very first time, the matter would not become so complicated. I am sorry to comment that that the officers of Tala PS showed a very indifferent attitude from the very inception.

The point whether the merit of the case will suffer for the defective investigation, is one of the vital issue of this case.

In this regard, I want to rely upon the decision of the Hon'ble Apex Court as passed in Criminal Appeal No. 490 of 2017 and 491 of 2017 (Munna Lal, Sheo Lal ~vs~ State of UP), which was followed in another decision of the Hon'ble Apex Court as reported in (2024) 4 SCC 208 (Ram Singh ~vs~ State of UP).

The endeavor of every court is to reach to the root of the matter by analyzing and weighing of the evidences on record and to ascertain whether the person against whom the allegations were levelled, was duly found to be guilty as well as to ensure that the guilty does not escape the rigors of law.

I have already stated why I want to go to the conclusion that none, but this accused was behind the incident.

I want to quote the specific observation of the Hon'ble Apex Court: -

*“Although, mere defects in the investigative process by itself can not constitute ground for acquittal, it is the legal obligation of the Court to examine carefully in each case the prosecution evidence de hors the lapses committed by the Investigating Officer to find out whether the evidences brought on record is at all reliable and whether such lapses affect the object of finding out the truth”.*

On the basis of my discussion after scanning of the evidences, I am of the view that the negligence of the IO or the police administration or the hospital authority as well as the perfunctory investigation can, in no way stand on the way of the prosecution case.

So, only for the lapses on the part of the first investigating wing (Tala PS) the evidences adduced by the prosecution cannot be thrown into the waste paper box.

The point is thus answered accordingly.

Let us now turn our eyes to the role of the hospital authority.

It is admitted fact that the said victim was on duty when she had faced the brutal act of the accused and ultimately, she was forced to go to her heavenly abode.

From the evidence of PW-6 (Dr. Sumit Roy Tapadar), it appears that he was the first person amongst the senior doctors who have arrived into a self opinion that the victim was subjected to sexual assault and murdered. He also deposed that he had instructed the on-duty Sister to intimate the Police Out Post of the said hospital so that the place would be cordoned by police. It was his evidence that he had brought the matter to the notice of his official superior (HOD of Chest Department) and he was instructed by the HOD to bring it to the notice of the then MSVP (Dr. Sanjay Basisth) and the Principal (Dr. Sandip Ghosh). According to his evidence, he had called the then MSVP and the Principal named above but they did not pick up the call and he had sent one SMS from his mobile to the then Principal with request to call him immediately and the phone call or sending of SMS took place at around 10.00/10.30 am on 09.08.2024.

From his evidence, it is also clear that the then Principal Dr. Sandip Ghosh had called him and he had narrated the entire incident to him as he was the highest authority of hospital administration. His deposition was that Dr. Sandip Ghosh instructed him to send the dead body of the victim to morgue immediately to prevent any sort of problem in the hospital premises but the PW-6 denied to comply with the instruction of Principal as prior to the investigation by police, the body should not be removed and when it was informed by the PW-6 to Dr. Sandip Ghosh, the then Principal, he had instructed him to inform the Assistant Superintendent (Non-Medical).

According to the said witness, the on duty Assistant Superintendent (Non-Medical) namely Sucharita had called the family members of the victim from her official mobile and intimated that the condition of the victim was serious and the family members were asked to come to RG Kar Hospital immediately. He deposed that the said phone call was made in presence of himself and others.

We find corroboration of the said phone call from the evidence of the father of the victim.

The PW-6 also deposed that the anxious father of the victim again called the said Assistant Superintendent (Non-Medical) namely Sucharita and suddenly, she had replied the father that the victim committed suicide.

The PW-6 stated that he had opposed the same and had asked Sucharita as to why she had used the term suicide.

From the evidence of PW-36 (SI Sourav Kumar Jha) it appears that on 09.08.2024 at 10.00 am while he was one duty at Tala PS, he had received a telephone call from RG Kar Police Out Post and he was informed that one doctor of the said hospital had committed suicide and on getting the said news he went to RG Kar Hospital. From his cross-examination it appears that when on receipt of the said phone call he went to the R.G Kar Hospital, he did not make any GD entry but kept a blank entry in the GD book. As per the evidence of PW-24, the said blank entry was filled by him after 11.00 pm in his own handwriting by mentioning the time as 10.10 am.

Therefore, it is also very much clear that the said SI Sourav Kumar Jha also done an illegal act and he also like the PW-24 very proudly pronounced it in open court when his evidence was recorded.

It is very surprising that PW-36 also could not understand the gravity of the information received from the R.G Kar Out Post and he also acted in a very casual and illegal manner.

The said conduct of an officer in the rank of SI is very much shocking and painful and I think that the Commissioner of Police, Kolkata should take appropriate action as he will deem fit and proper to prevent the disciplined force from doing any illegal acts which may/shall adversely affect the merit of any case as well as the demand of justice of the sufferer.

Conjoint reading of evidences of PW-26 and PW-36 it is clear that a story of commission of suicide of the victim was in the air. The father of the victim (PW-2) also corroborated the fact that he was informed by the RG Kar Hospital authority that his daughter had committed suicide.

There is no doubt to consider that from the end of any authority, efforts were made to show the death as a suicidal one so that the hospital authority would not face any consequences.

From the case record it appears that the said “*illegal dream*” of the authority was not fulfilled as the Junior doctors raised protest and submitted one memorandum to the Principal and at that time, police force started their action but it caused sufficient delay and probably it was the reason for which the parents of the victim were not allowed to see their daughter.

Being the court of law, I condemn such attitude of the R.G Kar hospital authority.

It is very much clear that the then Principal and the MSVP of R.G Kar Hospital were very much aware on getting the intimation from the PW-6 that the victim was raped and murdered inside the hospital premises while she was on duty. It is not clear to me as to why the then Principal or the MSVP did not send any official intimation to the police authority about such unnatural death.

It is fact that without post-mortem, the cause of death could not be ascertained but being the doctors why they did not consider that the said death was an unnatural one and it was obviously, the duty of the hospital authority to intimate the police.

From the evidence as well as the documents proved in this case, it appears that no such intimation was sent to the police authority.

The said act of the administrative head of the concerned hospital creates a shadow of doubt about the fact and it seems that they wanted to suppress anything and that there was dereliction of duty on their part.

From the investigation so far conducted by the Kolkata Police and the CBI, no such evidence of latches on the part of RG Kar Hospital authority came out.

It appears that the CBI authority already availed the permission from the Ld. ACJM, Sealdah for further investigation as per the provision of section 193 BNSS.

In this case charge sheet was submitted only for the offence of rape and murder of the victim and the actual offender was placed before this court for trial. It does not mean that the entire investigation process came to an end. The confusion which came out from the evidences on record were mentioned in the previous paragraph but I am of the view that for such, dereliction of duties on the part of any authority, the accused has no right to get any relief, if sufficient materials to prove his involvement can be established by the prosecution.

I have already explained as to why I am of the view that none but this accused was involved in the incident of rape and murder of the victim and I think that the illegal/indifferent/lackadaisical acts on the part of the police authority of Tala PS as well as the administrative wing of R.G Kar Medical College and Hospital will not stand as a stumbling block on the way of trial of this case.

From the evidence of the PW-6 it also appears that the then Principal Dr. Sandip Ghosh had called an urgent meeting over the incident of death of the victim and the PW-6 was asked to attend the meeting. It was the evidence that the PW-6 went to the place assigned for the meeting but noticed that the said room was closed and the said meeting took place at the chamber of HOD, Chest department.

It was the evidence of the PW-6 that there were seven faculty members of different departments of RG Kar Hospital, who were the members of the said committee and the committee had recorded their statements.

During investigation the police authority or the CBI did not collect any such report of the investigation committee and as such, no such report could be considered by this court.

This point was raised by the Ld. Counsel for the complainant during his argument.

It is fact no such document was placed during trial and as such, there is one grey area and no answer is before us.

The question is whether non production of the said report became fatal for the prosecution case in any manner.

I am of the view that the prosecution correctly discharged the burden and placed sufficient evidence to establish the guilt of this accused. Accordingly, I am of the view that non production of the said investigation report or the lapses on the part of Police Administration, and the authority of R.G Kar Hospital, did not affect the case of prosecution in any manner.

**15. Proof of circumstantial evidence**

It is fact that this case depends upon the circumstantial evidence and the standard of proof required to convict a person on circumstantial evidence



must be fully established and the chain of evidence furnished by those circumstances must be complete and there should not be any reasonable ground of confusion. The circumstances from which the conclusion of the guilt is to be drawn, have not only to be fully established but also that all the circumstances so established, should be of a conclusive nature and consistent only with the hypothesis of the guilt of the accused and should not be capable of being explained by any other hypothesis.

In this connection I want to rely the decision of the Hon'ble Apex Court as reported in (1984)4 SCC 116 (Birdhi Chand Sarda VS State of Maharashtra) and (1994) 2 SCC 220 (Dhananjay Chatterjee Vs State of West Bengal).

In the instant case the presence of the accused at the said PO was proved by the CCTV footage, tower location of the mobile of the accused, evidence of the security guard and the Scientific evidence like DNA analysis. The said accused failed to place anything to show that the chain was not complete.

I have also explained that the recovery of bluetooth ear-phone and its continuous pairing with the mobile of the accused also proved that the said accused was present at the PO on the date and time of the incident.

It is fact that no particular time of death of the victim was stated by the experts and in reality it is not possible to say such and only a range of time can be stated about the probable time of death.

In this case, to ascertain the said probable time of death, the expert (PW-21 and PW-37) gave a vivid description and the defence failed to place anything to combat the said opinion.

Therefore, it is well established from all the angle that none but this accused was involved in the incident of rape and murder of the victim.

The prosecution story is that when the incident took place, the victim was alone in the said Seminar Room and on the other hand, from the side of defence it was not established that any other person was there in the seminar room at that time.

Therefore, there were only two witnesses of this incident (1) victim and (2) the accused. The said victim is not before us and as such, it is the accused who is duty bound to explain the circumstances and there is no scope of shifting of the onus of proof.

The accused got the scope to explain the circumstances but he failed to offer any alternative explanation denying his presence at the scene of crime. He was unable to negate the contention that no one else could have inflicted the said injuries over the person of the deceased (victim). The bald plea of denial offered by the accused and his explanation made at the time of his examination U/s 351 BNSS, do not lead me to hold that the accused could place any satisfactory explanation for which any suspicion can arise in the mind of the court.



All the acts of the accused in all human probability only correspond to his guilt.

All these circumstances were placed to the accused when he was examined u/s 351 BNSS. The object of legislature behind incorporation of this provision in the statute, is to give an opportunity to the accused to explain the circumstances appearing against him as well as to put forward his defence. Reliance is placed on the decision of the Hon'ble Apex Court reported in (AIR 2012 SC 1357 Ram Naresh ~vs~ State of Chhastisgarh). The accused got enough opportunity to explain the circumstances but he had placed the circumstances in such a manner, which did not come to his aid.

**16. The chain:-**

As a consequence of the discussion made above, I am of the firm view that the prosecution could established the following links in the chain of circumstances:-.

- (a) The accused was last seen in the CCTV footage on the way which led to the PO.
- (b) Cumulative reading of post mortem report, inquest report, report of MIMB created a chain of circumstances to establish that the death of the victim was homicidal and was due to the effects of manual strangulation (throttling) associated with smothering and that there was evidence of forceful penetration/insertion in the genitalia of the victim.
- (c) There was forensic matching of DNA of nipple swab, hair as well as blood of the victim found over the wearing of the accused.
- (d) The mobile tower location of the accused showed that he was within the proximity of R.G Kar Hospital.
- (e) Admission by the accused about his presence in the CCTV footages proved by the prosecution.
- (f) Baseless explanation of the accused during his reply U/s 351 BNSS.

**17. Motive of the accused:-**

The question will obviously come about the **motive of the accused**.

It is fact that there was no link between the victim and the accused or that they were known to each other or that there was any type of hostility between them or that the accused was engaged by anyone to murder the said victim.

Then the question normally comes in the mind of all why the accused committed such incident.

To consider the same we have to go back the Chetla on that fateful night. The accused admitted that after consuming liquor he entered into the hospital premises and went to the third floor. He could not place any cogent evidence that he did not go to the Seminar Room, whereas there are strong evidence in

the hands of the prosecution regarding his entry in the said place. If we place the arguments on a scale, it will tilt in favour of the prosecution. In that case, only option is that the accused took entry there and on sudden impulse he had attacked the victim to meet his lust. The victim was obviously not his target or that it was not known to him that the victim was there in the said Seminar Room and the offence committed by him was not pre-planned.

On this point, I want to rely upon the ratio of the decision of the Hon'ble Apex Court as reported in (1998) 9 SCC 238 (Nathuni Yadav v. State of Bihar).

The Hon'ble Court observed that motive for doing a criminal act is generally a difficult area for prosecution. One cannot normally see into the mind of another. Motive is the emotion which impels a man to do a particular act. Such impelling cause need not necessarily be proportionally grave to do grave crimes. Many a murders have been committed without any known or prominent motive. It is quite possible that the aforesaid impelling factor would remain undiscoverable.

The Hon'ble Court also observed that though, it is a sound proposition that every criminal act is done with a motive, it is unsound to suggest that no such criminal act can be presumed unless motive is proved. After all, motive is a psychological phenomenon. Mere fact that prosecution failed to translate that mental disposition of the accused into evidence, does not mean that no such mental condition existed in the mind of the assailant.

Reliance can also be placed on another decision of the Hon'ble Apex court reported in AIR 1955 SC 807 (Atley v. State of U.P.). in the said case, the observation of the Hon'ble Court was that *"That is true; and where there is clear proof of motive for the crime, that lends additional support to the finding of the court that the accused was guilty but the absence of clear proof of motive does not necessarily lead to the contrary conclusion."*

It is fact that in some cases, it may not be difficult to establish motive through direct evidence, while in some other cases inferences from circumstances may help in discerning the mental propensity of the person concerned. There may also be cases in which it is not possible to find out the mental transaction of the accused which would have impelled him to act. No proof can be expected in all cases as to how the mind of the accused worked in a particular situation but the same by itself is insufficient to lead to any inference adverse to the prosecution.

The present case should be seen in the touchstone of the said observation of the Hon'ble Court and I hold that the prosecution case will not face the failure for want of direct evidence about the motive of the convict.

**18. Another side of the case:-**

From the evidence of the PW-5 it came out that prior to this incident, on one night while she was taking rest at the said Seminar Room, one outsider entered there in intoxicated condition and she raised voice. She also deposed that the matter was brought to the notice of the HOD Chest Department but no action was taken.

This fact came out from the said doctor while she deposed before this court.

From the evidence of the PW-3 (cross-examination Para 24,25,26) it appears that on the date of incident after taking dinner, while he was on his way to wash his hands, he had noticed that some outsider was sleeping in the Procedure Room, close to the Nursing Station and the person was driven away.

This evidence also proves that there was free access of outsiders to any place of the Hospital.

This proves that the entry of this accused unnoticed, was not the only occasion. It also took earlier and this shows that there were lapses of security for the doctors specially who conducts duty at night.

Obviously, it is an administrative issue, but I am referring it as it helps to bring the chain.

The brutality of the incident gave a shake to the people at large. Various reports were there in the hands of the public. In my view everything should be considered in the proper touchstone. In this regard I want to remind the observation of the Hon'ble Apex Court, reported in AIR 2010 SC 2352[Siddharth Vashisth ~vs~ NCT of Delhi] and the observation of the Hon'ble Delhi High Court as passed in Naveen Jindal ~vs~ M/S Zee Media Corporation Ltd. & Others reported in AIR 2015(NOC) 1281(Del).

**19. Discussion on the points raised by the complainant in the written note of argument: -**

The question was raised that by demolishing the room close to the Seminar Room, the vital evidences were destroyed.

This point was discussed at length, and it was observed by this court that the CFSL team had examined the debris but did not find any biological materials there and such the apprehension of the complainant bears no value.

Another query of the complainant was what prompted the Principal to form an Enquiry Committee to get the cause of death.

In my view, as the death of the victim was caused while she was on duty, the steps taken was not wrong but the investigating agency must ascertain the fate of the said committee or the report of the said committee.

It was also the question of the complainant that what prevented the Principal to lodge any complaint.

The reply of the same was given in relevant paragraph.

It was the question before this court from the unfortunate father of the victim that there was tampering of evidence.

From the evidences on record it appears that the clinching evidences were produced by the prosecution and from the evidences some materials came out regarding the dereliction of duties by the authorities but I did not find any material till now which can attract the provision of S.238 BNS as dereliction of duty and tampering of evidence do not carry same and identical mean-

ing and accordingly, I did not find any reason to apply the power U/S 358 BNSS against any other person(s).

A baseless question was placed by the complainant that as the Principal did not come out of his chamber to meet the parents of the victim, the same proves that he was guilty.

This question comes into contradiction with the evidence of the PW-2 (Para 38 of the examination-in-chief). The said witness deposed that some persons tried to take him to the chamber of the Principal but they denied to go there and their demand was that the Principal must meet them. I do not think that the same can put any stigma on the Principal that he was guilty.

Question was also raised about the resignation of the Principal.

This is not related to this case and purely an administrative issue and as such should not be considered as an argument.

A point was raised about S.119 BSA. No ground was assigned for it.

Regarding non-examination of the Nursing staff was explained at proper places in the judgement.

The point of non-examination of the food delivery person or non collection of the food containers were also answered.

It was argued that the table was not seized.

I did not find any relevance of the same and as such I do not think it necessary to reply this part.

I do not find any ground why the Ld. Counsel for the complainant mentioned that the seizure should have been done by the Ld. JM. The legal provision was not placed, and I think that it was a baseless question.

Questions were raised about the GD entries and I have criticized the same and discussed in details.

Question was placed about seizure of mobile phone of the then Principal of the Hospital.

In my view, further investigation has not yet been completed. So till now time has not come to reach to any conclusion on this point.

In my humble view, the Ld. Advocate for the complainant could not place the queries in proper manner following the evidence on record and the exhibits. Some hypothetical and imaginary questions were placed which made their entire effort a very light one.

*I am in doubt whether the said document can be treated as written notes of argument or not.*

It is not clear to me how the prayer in the form of further investigation was placed before the trial court and what is the legal stand of such prayer at this stage.

**Observation :-**

Accordingly, **I have no hesitation to hold that the prosecution could establish that this accused was involved in the incident of offence of rape**

**(S.64BNS) and murder of the victim [S.103(1)BNS] at R.G Kar Medical College & Hospital on 09.08.2024.**

Charge was also framed for the offence u/s 66 BNS.

In order to constitute the said offence, the prosecution must have to prove that in course of commission of an offence of rape, the accused had inflicted such injury, which caused the death of the said woman.

In the instant case it was established that at the time of commission of the offence of rape, the accused committed throttling associated with smothering, which was the proximate cause of death of the victim.

**Accordingly, without any hesitation, I hold that the charge u/s 66 BNS was also established against this accused.**

Hence, it is

**ORDERED**

that the charges U/S **64/66/103(1) BNS** were established against the accused person namely, **Sanjay Roy**.

He is found guilty and as he is facing trial from custody, he will be produced from custody on 20.01.2025 at 12.30 pm to hear him on the point of sentence and pronouncement of sentence.

Seized alamats, will be disposed of as per the provisions of BNSS.

D/C by me

*Addl. Sessions Judge,  
1st Court, Sealdah  
South 24 Parganas*

**(Anirban Das) (WB 00691)**  
*Addl. Sessions Judge  
1st Court, Sealdah  
South 24 Parganas*

Order dated 20.01.2025

The convict Sanjay Roy is produced from J.C.

He submits that he is innocent and that he was falsely implicated by some police personnel with some ulterior motive.

The convict also submits that his family consists of his aged old mother and it was also submitted that no one of his relation met him while he was in custody in connection with this case.

Heard the Ld. Counsel for the said convict. It was asserted that the prosecution's chain of evidence was fraught with weaknesses and significant gaps. It was also contended that these doubts should inure to the benefit of the convict, urging the court to consider these factors during sentencing deliberations.

The Ld. Counsel had placed before me some decisions of Hon'ble Apex Court as reported in *(1974) SCC 443 (Ediga Anamma Vs State of Andrapradesh)*, *(1979) 3 SCC 646 (Rajendra Prasad Vs State of UP)*, *(2019) 12 SCC 438 (Chaman Lal Verma Vs. State of Chattisghar)*

Relying upon those decisions, the Ld. Defence counsel prayed for consideration when there is alternative option of imprisonment for life.

It was also the submission that reformatory and rehabilitation policy may also be considered at the time of pronouncement of sentence.

From the end of the Ld. Counsel of the convict, a research paper published from National Law University, Delhi, is placed before me.

My attention was drawn to the Chapter on "Life Experiences Mitigating Factors"

I have considered the said portion placed before me wherein the judgment of the Hon'ble Apex Court in Bachan Singh case was considered.

Conversely, the learned PP CBI, submitted that the prosecution had presented irrefutable evidence before the court. He argued that this evidence formed a robust foundation for the prosecution's case, leaving no room for doubt. In the light of the gravity of the case, the Ld. Public Prosecutor, CBI advocated for the imposition of capital punishment.

The Ld. Counsel for the Complainant also prayed for capital punishment.

In this case, charges were framed under sections 64/66/103(1) of the BNS. The conviction is founded on a robust framework of circumstantial evidence, which,



when viewed holistically, forms an unbroken chain pointing unequivocally to the guilt of the convict. The evidence presented in this case reveals a disturbing and comprehensive account of the crime. The justification for the conviction is multifaceted and compelling. The evidence of PW-21 and PW 37 as well as the Post Mortem Report conclusively establishes the homicidal nature of the victim's death, attributing it to manual strangulation compounded by smothering. Forensic examination conclusively established that the victim endured sexual assault, with clear indications of penetration or insertion resulting in genital trauma. This finding not only corroborates the charge of sexual violence but also highlights the brutality of the attack.

Further solidifying the case against the convict, advanced forensic techniques yielded crucial DNA evidence. The blood sample analysis report demonstrated a definitive match between the DNA profiles of the victim and the convict. This genetic evidence was recovered from multiple sources at the place of occurrence, including nipple swabs and hair strands. Such precise biological matches provide incontrovertible scientific proof placing the convict at the place of occurrence.

The convergence of these forensic findings - the physical evidence of sexual assault and the DNA matches from various samples - constructs a compelling scientific narrative. It not only confirms the presence of the convict at the place of occurrence but also directly links him to the violent acts perpetrated against the victim. This forensic evidence forms a cornerstone of the prosecution's case, offering objective, scientific corroboration of the charges and leaving little room for alternative explanations.

The forensic evidence provides a crucial scientific link between the convict and the place of occurrence. The DNA profile matching between the victim and the convict, found in nipple swabs and hair strands recovered from the place of occurrence, offers compelling scientific evidence. Visual evidence from surveillance cameras at RG Kar Hospital corroborates the convict's presence at the place of occurrence, aligning with the timeframe of the offence. The statement of the convict under Section 351 BNSS, while not conclusive in itself, adds another layer to the cumulative evidence against him.

The nature of this crime is particularly heinous, characterized by its brutality and the vulnerability of the victim. The act of manual strangulation coupled with smothering indicates a prolonged and deliberate infliction of suffering. The additional element of sexual assault compounds the gravity, reflecting a complete disregard for human dignity and life. The description of the crime as "diabolic" and the victim

being "bound to sacrifice herself for the satisfaction of the lust of the convict" emphasises the extreme depravity of the act.

Let us now consider the statutory sentences provided for the offence u/s 64/66 /103(1) BNS.

Sl. No.	Offences	Sentence
1.	S. 64 BNS	RI for a period which shall not be less than 10 years but which may extend to imprisonment of life & fine
2.	S.66 BNS	RI for a term which shall not be less than 20 years but which may extend to imprisonment for the remainder of that person's natural life or with death
3.	S.103(1) BNS	Death or imprisonment for life & fine

While the strength of circumstantial evidence is a critical factor in determining guilt, the gravity of the offence takes centre stage when considering the appropriate punishment, particularly when capital punishment is on the table. The Indian judicial system, like many others around the world, has established stringent criteria for imposing the death penalty, reserving it for cases that are exceptionally heinous and shock the collective conscience of society.

In evaluating the severity of this case, several factors come into play. The *brutality of the crime* is a primary consideration. The combination of strangulation, smothering and brutal sexual assault demonstrates a level of cruelty that goes beyond the pale of ordinary criminal behaviour. This series of violent acts suggest a prolonged and agonising ordeal for the victim, indicating a complete disregard for human life and dignity. The method of execution of the crime, involving multiple forms of assault, speaks to a deliberate and sustained intent to cause harm, elevating the gravity of the offence.

The *helplessness of the victim* is another crucial factor that adds to the heinousness of the act. Victims who are particularly vulnerable, whether due to age, physical condition or circumstances, are afforded special consideration in criminal jurisprudence. Their inability to defend themselves or escape their attacker magnifies the culpability of the perpetrator and the shock value of the crime. In this case, the victim's vulnerability during the attack highlights the predatory nature of the crime and the perpetrator's exploitation of an unequal power dynamic.

The *societal impact* of such a crime cannot be overstated. Heinous acts of this nature instill fear in the community and erode the fabric of social trust. They create a sense of insecurity, particularly among vulnerable groups and can have long-lasting effects on the collective psyche of society. The ripple effects of such crimes extend far beyond the immediate victims and their families, touching the lives of countless individuals who may alter their behaviour or live in fear as a result. This broader impact on society is a significant consideration when evaluating the severity of the crime and contemplating appropriate punishment.

The apparent *absence of any extenuating factors* for the convict's actions further compounds the severity of the case. Mitigating circumstances, such as mental illness, extreme provocation or a history of abuse, often play a role in tempering sentences.

However, in this case, the lack of such mitigating factors leaves little room for leniency. The absence of any apparent justification or explanation for such a brutal act adds to its reprehensibility and may influence the court's consideration of appropriate punishment.

When considering the imposition of capital punishment, courts must grapple with a complex web of legal, moral and societal considerations. The principle of proportionality is paramount – the punishment must fit the crime. In cases of extreme brutality and cruelty, where the offence shocks the conscience of society, the argument for the ultimate punishment gains strength. However, this must be balanced against the principles of reformatory justice and the sanctity of human life.

The deterrent effect of capital punishment is a subject of ongoing debate in legal and criminological circles. Proponents argue that the threat of death serves as the ultimate deterrent to potential offenders, especially in cases of heinous crimes. Critics, however, point to the lack of conclusive evidence supporting this claim and argue that the certainty of punishment, rather than its severity, is a more effective deterrent.

The *possibility of reformation* is another crucial factor that courts must consider. The judicial system must weigh whether the convict, given the nature and circumstances of their crime, shows any potential for rehabilitation and reintegration into society. This assessment often involves considering the convict's background, behaviour during trial, expressions of remorse and expert opinions on their psychological profile.

In the case at hand, the Ld. P.P., has advocated for the death penalty for offences under sections 66 and 103(1) of the BNS, along with life imprisonment for

the offence under section 64 BNS and the imposition of fines. This recommendation reiterates the prosecution's view of the extreme gravity of the offences committed.

The court's duty in such cases extends beyond mere punishment; it must consider the broader implications of its decision on society. In this case, the victim stands behind an "invisible curtain" seeking justice. This poignant imagery emphasises the court's responsibility to not only punish the perpetrator but also to provide a sense of justice and closure to the victim's family and society at large.

The impact of the crime on the victim's family and the larger community is heart-wrenching. The loss of a life with "bright prospects" represents not just a personal tragedy but a loss to the nation of potential talent and contribution. The court must weigh this loss heavily in its deliberations, considering how the sentence can reflect the value society places on human life and potential.

The failure of institutional safeguards, as stated regarding the hospital authority and the State's inability to provide adequate security, adds another layer of complexity to the case. While this does not directly impact the culpability of the convict, it raises broader questions about societal responsibility and the need for systemic changes to prevent such tragedies in the future.

Keeping all the said aspects, appropriate sentence should be pronounced.

In view of the manner in which the offence was committed by the convict, as proved by the prosecution, according to me, one can only say that the action of the convict is *barbaric and brutal*. The gruesome acts of the convict were diabolic in their conception and cruel in execution.

The point to be decided whether the act of the convict falls within the ambit of *rarest of rare case* or not.

In evaluating whether this case meets the threshold for capital punishment, the court must carefully analyse precedents set by higher courts, particularly the Supreme Court, regarding the application of the death penalty in cases of similar gravity. This analysis involves examining how previous cases of comparable brutality and circumstance were adjudicated and the reasoning behind those judgments.

In Bachan Singh vs State of Punjab reported in (1980) 2 SCC 684, the observation of the Hon'ble Apex Court was that the following guidelines should be kept in mind:-

*“(i) The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.*

*(ii) Before opting for the death penalty the circumstances of the ‘offender’ also require to be taken into consideration along with the circumstances of the ‘crime’.*

(iii) Life imprisonment is the rule and death sentence is an exception. In other words 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, and only 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.

(iv) 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 the mitigating circumstances before the option is exercised.”

This observation of the Hon’ble Apex Court was also followed in another decision of the Hon’ble Apex Court as reported in (2002) 6 SCC 81 Krishna Mochi v. State of Bihar.

It is fact that in a civilized society a tooth for a tooth, and a nail for a nail or death for death is not the rule, but it is equally true that when a man becomes a beast and menace to the society, he can be deprived of his life according to the procedure established by law.

I want to rely upon another decision of the Hon’ble Apex Court as reported in (1983) 3 SCC 470 (Machhi Singh v. State of Punjab).

In the said case, the Hon’ble Court made the following observation which is very much relevant:-

“The reasons why the community as a whole does not endorse the humanistic approach reflected in “death sentence-in-no-case” doctrine are not far to seek. In the first place, the very humanistic edifice is constructed on the foundation of “reverence for life” principle. When a member of the community violates this very principle by killing another member, the society may not feel itself bound by the shackles of this doctrine. Secondly, it has to be realized that every member of the community is able to live with safety without his or her own life being endangered because of the protective arm of the community and on account of the rule of law enforced by it. The very existence of the rule of law and the fear of being brought to book operates as a deterrent for those who have no scruples in killing others if it suits their ends. Every member of the community owes a debt to the community for this protection. When ingratitude is shown instead of gratitude by “killing” a member of the community which protects the murderer himself from being killed, or when the community feels that for the sake of self-preservation the killer has to be killed, the community may well withdraw the protection by sanctioning the death penalty. But the community will not do so in every case. It may do so “in rarest of rare cases” when its collective conscience

is so shocked that it will expect the holders of the judicial power centre to inflict death penalty irrespective of their personal opinion as regards desirability or otherwise of retaining death penalty. The community may entertain such a sentiment when the crime is viewed from the platform of the motive for, or the manner of commission of the crime, or the anti-social or abhorrent nature of the crime \*\*\*\*\*”.

In Manoj & Ors. versus State of Madhya Pradesh the Hon’ble Apex Court as reported in 2022 SCC OnLine SC 677, has observed:

“209. There are numerous other circumstances justifying the passing of the lighter sentence; as there are countervailing circumstances of aggravation. “We cannot obviously feed into a judicial computer all such situations since they are astrological imponderables in an imperfect and undulating society.” Nonetheless, it cannot be over-emphasised that the scope and concept of mitigating factors in the area of death penalty must receive a liberal and expansive construction by the courts in accord with the sentencing policy writ large in Section 354(3). **Judges should never be blood-thirsty.** Hanging of murderers has never been too good for them. Facts and Figures, albeit incomplete, furnished by the Union of India, show that in the past, courts have inflicted the extreme 91 Bachan Singh (para 202 and 206). 66 penalty with extreme infrequency — a fact which attests to the caution and compassion which they have always brought to bear on the exercise of their sentencing discretion in so grave a matter. It is, therefore, imperative to voice the concern that courts, aided by the broad illustrative guide-lines indicated by us, will discharge the onerous function with ever-more scrupulous care and humane concern, directed along the highroad of legislative policy outlined in Section 354(3) viz. **that for persons convicted of murder, life imprisonment is the rule and death sentence an exception.** A real and abiding concern for the dignity of human life postulates resistance to taking a life through law's instrumentality. That ought not to be done save in the rarest of rare cases when the alternative option is unquestionably foreclosed.”

At the same time, I want to rely upon some other decisions of the Hon’ble Apex Court as reported in (2008) 13 SCC 767 (Swamy Shraddananda (2) ~vs~ State of Karnataka) which was followed in 2024 SCC Online SC 3769 (Sambhubhai Raisangbhai Padhiyar ~vs~ State of Gujarat). In Sambhubhai Raisangbhai Padhiyar ~vs~ State of Gujarat, the hon’ble Apex Court has observed:

“32. The Trial Court has imposed the sentence of death and the High Court has confirmed the same. It is time for us to draw up a balance sheet of the aggravating and mitigating circumstances to decide whether the case falls in the category of rarest of



*rare case. We also need to examine whether the sentence of life imprisonment is foreclosed and the possibility of reformation is completely ruled out.*

*36. Considering the overall facts and circumstances, we hold that the present is not a case where it can be said that the possibility of reformation is completely ruled out. The option of life imprisonment is also not foreclosed. The case does not fall in the category of rarest of rare case. We are of the opinion that ends of justice would be met if we adopt the path carved out in Swami Shraddhananda Vs. State of Karnataka (2008) 13 SCC 767*

*40. The trial Court had sentenced the appellant to death under Section 302 IPC, to simple imprisonment of 10 (ten) years and a fine of Rs.10,000/- for offence under Section 364 and to life imprisonment and a fine of Rs.10,000/- for offence under Section 6 of the POCSO Act. No separate sentences were awarded for offences punishable under Section 4 of the POCSO Act and Section 377 of IPC. The trial Court had directed that the accused should suffer all the above ordered punishments together. The High Court had confirmed the death sentence and dismissed the appeal of the appellant.*

*41. In view of what we have held hereinabove, while maintaining the conviction under Sections 302, 364, 377 of IPC and Sections 4 and 6 of the POCSO Act, we set aside the sentence of death for the offence under Section 302 and **substitute the same with that of rigorous imprisonment for a period of 25 (twentyfive) years without remission.** We also order that the sentence imposed for offences under Section 364 IPC (10 years S.I. and Rs. 10,000/- fine) and Section 6 of the POCSO Act (life imprisonment and Rs.10,000/- fine) shall run concurrently with the sentence of rigorous imprisonment for a period of 25 years without remission, which we have presently ordered.”*

The judiciary's primary responsibility is to uphold the rule of law and ensure justice based on evidence, not public sentiment. It is of prime importance that the court maintain its objectivity and impartiality by focusing solely on the facts and evidence presented during the trial, rather than being swayed by public opinion or emotional reactions to the case. Furthermore, the court must consider the rights and circumstances of the accused, as well as the broader implications of its decisions. In this particular case, it is crucial to note that there is no evidence of prior criminal behaviour or misconduct by the convict.

In the realm of modern justice, we must rise above the primitive instinct of "an eye for an eye" or "a tooth for a tooth" or "nail for a nail" or "a life for a life". Our duty is not to match brutality with brutality, but to elevate humanity through wisdom, compassion and a deeper understanding of justice. The measure of a civilized

society lies not in its ability to exact revenge, but in its capacity to reform, rehabilitate and ultimately to heal.

Referring to the landmark Bachan Singh case, which established guidelines for imposing the death penalty, it is evident that this case does not meet the stringent criteria for being classified as "rarest of the rare." The Supreme Court has consistently emphasized that the death penalty should be used only in exceptional circumstances where the collective conscience of the community is so shocked that it expects the holders of judicial power to inflict the death penalty.

Given these considerations, it would be inappropriate to accede to the prosecution's request for the death penalty. While acknowledging the immense grief and suffering of the victim's parents, for which no sentence can provide complete solace, the court's duty is to pass a sentence that is proportionate, just and in accordance with established legal principles.

In conclusion, this case calls for a carefully considered and appropriate sentence that balances the gravity of the crime with the principles of justice, rehabilitation and the preservation of human dignity. The court must resist the temptation to bow to public pressure or emotional appeals and instead focus on delivering a verdict that upholds the integrity of the legal system and serves the broader interests of justice.

**Considering all the circumstances, the impact of the incident on the society, the sentiment of the public at large, I think it prudent to pass the following sentence:-**

Sl. No.	Penal provision	Sentence
1.	Sec.64 BNS	Rigorous imprisonment for life and fine of Rs.50,000.00
2.	Sec.66 BNS	Rigorous imprisonment for remainder of the convict's natural life
3.	Sec.103(1) BNS	Rigorous imprisonment for life and fine of Rs.50,000.00

**O R D E R E D**

The convict **Sanjay Roy** is sentenced u/s 258(2) BNSS to suffer

(i) R.I for life and fine of Rs.50,000.00 (u/s 395 BNSS) for offence u/s 64 BNS, in default to suffer SI for five months

(ii) R.I for life and fine of Rs.50,000.00 (u/s395 BNSS) for offence u/s 103(1) BNS in default SI for five months.

(ii) R.I for remainder of the convict's natural life for offence u/s 66 BNS.

All the sentences will run concurrently.

Period of detention in connection with this case at the time of investigation, will be set off as per the provision of S.468 BNSS.

Let a copy of this judgement be handed over to the convict free of cost.

The convict is informed in open court in Bengali language (which is his mother tongue) that he has the right to prefer appeal against this judgement and that he has the right to avail legal aid for filing of the said appeal by taking assistance of the District Legal Services Authority South-24 Parganas.

The Superintendent Presidency Correctional Home is directed to assist the convict so that he may get legal aid, if applied for.

The Secretary DLSA South 24-Parganas is also directed to take proper steps so that the convict can file appeal from the J/C by taking legal aid, if needed.

**Compensation u/s 396 BNSS:-**

As per the provision of S. 2(y) of BNSS the term *victim* means a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and includes the guardians or legal heirs of the said victim.

Here in this case, the daughter of the complainant is the sufferer and she had lost her life and she left behind her parents and as such they come within the purview of the definition of "*victim*" as per the provision of S.2(y) BNSS.

In the instant case, since the time of death of the daughter of the complainant, they are passing their days with trauma and they are visiting the court to get justice on each and every day.

Their pain and sufferings cannot be compensated with any liquid cash but at the same time I think that as the death of the victim was caused while she was on duty, the State has also the liability to pay compensation which will be in addition to the compensation ordered u/s 395 BNSS.

Following the guideline of NALSA, I recommend compensation to the tune of Rs. 10,00,000/- (Rupees ten lakhs) on account of loss of life and Rs.7,00,000/- (Rupees seven lakhs) for commission of rape upon the victim.

D/C by me

*Addl. Sessions Judge,  
1st Court, Sealdah  
South 24 Parganas*

**(Anirban Das)** (WB 00691)  
*Addl. Sessions Judge  
1st Court, Sealdah  
South 24 Parganas*

