

(2006) 09 CAL CK 0055
In the Calcutta High Court
Case No : C.R.A. No. 115 of 1999

Sri Prithwish Chowdhury and Others

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 01-09-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 313

Evidence Act, 1872 — Section 118

Penal Code, 1860 (IPC) — Section 302, 34, 498A

Citation : (2007) 1 CALLT 192 : 111 CWN 191

Hon'ble Judges : Dipankar Datta, J; Amit Talukdar, J

Bench : Division Bench

Advocate : Joymalya Bagchi and Anasuya Sinha, for the Appellant; Swapan Kr. Mallick and Ratan Ghosh, for the Respondent

Final Decision : Dismissed

Judgement

Amit Talukdar, J.—For salvaging their lost fortune suffered before the learned Additional Sessions Judge, 5th Court, Alipore in Sessions Trial No. 2(1) 1995 on account of their conviction passed on 31.3.99 the Appellants - Prithwish Chowdhury (for short, "A1"), Smt. Sefali Chowdhury (for short, "A2") and Smt. Pratima Chowdhury (for short, "A3") (the husband, mother-in-law and unmarried sister-in-law respectively of the deceased Anjana) have preferred this Criminal Appeal.

2. While it may be of poor consolation for little Moumita alias Rini (PW11) to be apprised of the exact cause of the death of her mother Anjana in the forenoon of 22.5.1991, the same has baffled the Autopsy Surgeon, Dr. P.B. Das (PW10). Additional Chief Medical Officer of Health, Alipore; another expert on the same profession PW2. Prof. Apurba Kumar Nandy, Professor and Head of the Department of Forensic Science and State Medicine, Calcutta Medical College & Hospital and Vice-Principal and also former Expert, Prof. Jagat Bandhu Mukherjee and have stirred the Investigative skill of PW26, Sujit Banerjee and have

persuaded the defence to seek a dent in the prosecution case.

3. This Court is required to assess the position without being caught between Scylla and Charybdis.

4. Marriage between A1 and Anjana took place on 19.4.1986 which is evident from the deposition of her brothers - Asit Ranjan Bose (PW1), Alope Ranjan Bose (PW12) and Ashoke Ranjan Bose (PW17) and her sister-in-law Sumita Bose (PW4). Anjana the wife of A1 for just five years presented the latter a little girl Moumita alias Rini, who had barely walked in this earth for four years when tragedy struck her and she had the misfortune of losing her mother in such a tender age by way of the designs of the appellants.

5. Anjana had a jinxed matrimony which can be found from the evidence of her brothers and her sister-in-law. Her impaired marital life has also been spoken by some of the neighbours of her matrimonial home. PW7, Babli Chakraborty deposed that "Anjana used to report to me that her husband, mother-in-law and the sisters of her husband had been torturing her at her matrimonial home over trifling matters...". PW8, Dilip Karmakar the very next door neighbour of the appellants, although turned hostile, was a very important witness. He also deposed that A1 had occasional quarrel with Anjana. PW3 Paltu Bhattacharya whose house was separated by 2-3 houses from the appellants also spoke about the fact that whenever he used to draw water from the tube well, which is situated in front of the house of A1, he heard quarrel between A1 and Anjana inside their house.

6. This is one part of the Prosecution Case.

7. More precisely we find from the evidence of her elder brother Asit Ranjan Bose (PW1) that during the visit of Anjana to their house she used to complain that the articles given at the time of her marriage was not to the liking of the Appellants and she was tortured physically and mentally on account of the same. PW1, along with his elder brother and his wife (both of them since deceased), his younger brother Alope Ranjan Bose (PW12) and Ashoke Ranjan Bose (PW17) used to pacify the appellants so that Anjana might not be tortured.

8. PW1, Asit Ranjan Bose happens to be the author of the FIR(Ext.1) which was recorded as the formal FIR (Ext. 10) by PW25, Khagendra Nath Das attached to the Jadavpur Police Station.

9. We find that the version of the FIR and the substantive evidence of PW1 in Court are quite supplementary of each other. As such, we feel that this a strong position by itself.

10. PW17, Ashoke Ranjan Bose brother of deceased Anjana corroborates the version of PW1 in a substantial fashion and PW5, Sumita Bose, sister-in-law (Baudi) of Anjana had, in fact, specifically spoken about Anjana visiting their house just two weeks prior to her death and reporting about the demand made by A1 for Ps. 10,000/- and in default of which she would be killed.

11. Once we have found the fate of Anjana, which was ordained in her ruptured matrimony, which did not bring peace to her as a newly married housewife and the proud mother of a young child Maumita alias Rini (PW11), whom destiny made to forsake her in the hands of death leaving the little child defenceless in the harsh world of reality.

12. We now enter into the House of Death (read: the matrimonial home of the deceased Anjana situated at A/10, Baghajatin Pally).

13. Sequence of events which brought the near and dear ones of Anjana by the side of her mortal remains just after she was relieved from all her agony while death in the hands of the Appellants gave her a healing touch to all her miseries and sorrows she was subjected in her matrimonial home and at the same time leaving a gaping wound in the soul of her daughter little Maumita (PW11) are required to be seen.

14. We find from the deposition of her elder brother (PW1) that on 22.5.1991, which was a day of Bangla Bandh, at about 3 O'clock in the afternoon two neighbours of the Appellants - Bishnu Das (PW14) and one Sanjib Kanjilal (not examined) came to their house and reported that Anjana is no more. On receiving such information PW1 accompanied by his younger brothers (PW12 & PW17) rushed to the house of the Appellants. His wife Sumita Bose (PW4) also accompanied them. He found Anjana lying dead in a supine position her bedstead. He found that there was clotted blood inside her nostrils and stains of dried up blood on her wearing sari and blouse. Photographs of their departed sister were taken by his younger brother Alope Ranjan Jose (PW12).

15. On enquiry made by A1 and A3 as to how Anjana died he could not get any reply. Dilip Karmakar (PW8), who although turned hostile, stated that in the morning he had seen A1, A2 and A3 assaulting Anjana and dragging her from the court yard towards the room. Bishnu Das (PW14) also confirmed the version of PW8. Unfortunate Maumita alias Rini (PW11) told PW1 that in the morning the Appellants had assaulted her mother Anjana with lathi as a result of which she lay on her bed and "gradually stopped uttering words". PW1 "found marks of ecchymosis on her bark".

16. Alongside this piece of evidence of PW1 we have the evidence of his wife Sumita Bose (PW4), his younger brother Alope Ranjan Bose (PW12) and the neighbours - Ruby Roy (PW5). Babli Chakraborty (PW7) and Paltu Bhattacharya (PW3); and also Krishna Dasgupta (PW20) deposed that her wearing apparels were bloodstained. More particularly, PWs.1, 3, 4, 5 and 12 had spoken about detection of blood in the nostrils of deceased Anjana. Even the first Investigating Officer PW23, Kartick Dey saw clotted blood on her nostrils. However, non-mention of the same in the First Information Report, lodged by PW1 put the said piece of evidence in the eye of the storm at the behest of the learned lawyer for the Appellants which we would deal with later.

17. Sprinkled along side the principal evidence noticed by us is the subsidiary

evidence of PW2, Dr. Chaitanya Ghosh of the locality. His evidence shows that Pijush Chowdhury, brother of A1 came to him in May, 1991 and reported that his "Baudi" (read: Anjana) had taken ill as she received electric shock. PW3, Dr. Ghosh accompanied Pijush to their home and examined Anjana who "was lying dead on the floor of the room" and advised him to report the matter to the Police. Dr. Ghosh (PW3) turned hostile. P.W9, Bishnupriya Chowdhury, who happens to be an aunt of A1 was also declared hostile spoke about the good terms she had with all the Appellants. However, it passes beyond our comprehension as to why she was put in the witness box when it was suggested by PW1 and PW4 that A1 shared an amorous relationship with her, it is not understood by winching her to the fore what benefit was sought to be gained by the Prosecution. PW6, Sankar Saha a neighbour of the A1 heard about the death of Anjana. He was signatory to the Seizure list (Ext.3) pertaining to the seizure of - (1) wooden door lock and (2) green coloured Diary of the year 1986. Then we have PW15, Partha Banerjee, who attested the Seizure List (Ext.7) pertaining to the seizure of the two photographs (Mat. Exts. II and III).

18. Reverting back to the mainstream of the Prosecution Case we have now before us two important ancillary witnesses who lend support to the basic structure of the Prosecution Case. They are: first, PW16, Debdas Mondal, Executive Magistrate, Alipore (Sadar), who held the Inquest on the body of Anjana in the mortuary of Mangi Ram Bangur Hospital on 23.5.91 at about 02-55 p.m. in presence of the Investigating Officer Kartick Dey (PW23) and secondly of primordial importance is the evidence of PW13, Pradip Kumar Rakshit who at the relevant time was posted as the learned Judicial Magistrate, 9th Court, Alipore. On the directions of the learned sub-Divisional Judicial Magistrate, Alipore Shri Rakshit (PW13) on 03.8.91 recorded the statement (Ext.8) u/s 164 of the Code of Criminal Procedure (hereinafter referred to as "the said Code") of little Maumita (PW11) after being produced before him by a lady home Guard Smt. Ganga Bhattacharya (not examined) in his Official Chamber.

19. After the written information (Ext. 1) was lodged by PW1, Asit Ranjan Bose, elder brother of deceased Anjana PW25, Khagendra Nath Das, attached to the Jadavpur Police Station recorded it as a formal FIR (Ext.10) and started investigation after being entrusted by PW19, Makhan Lal Mukherjee, the then Officer-in-Charge of Jadavpur Police Station.

20. Subsequently the control of the Investigation was assumed by the Criminal Intelligence Department (C.I.D.) and PW26, Sujit Banerjee came seizin thereof, pursuant to the direction of the D.I.G., C.I.D. Shri Banerjee (PW26) directed his investigation by giving it a new dimension by way of seeking clarifications from the Autopsy Surgeon Dr. Das (PW10) and the Expert - Prof. Nandi (PW21).

21. In one hand while P.Ws.1, 12, 17, 4 and above all PW11 was reconciling themselves with the death of Anjana, the subject matter of her death was trapped in a medico-legal triangle before Dr. Das (PW10), the Additional Chief Medical Officer of Health, who held the post mortem examination on the dead

body of Anjana on 23.5.91; Prof. Apurba Kumar Nandy (PW21), Professor and Head of the Department of Forensic Science and State Medicine, Calcutta Medical College & Hospital and D.W.1, Prof. Jagat Bandhu Mukherjee a predecessor-in-Office of Prof. Nandi.

22. After deliberating on the entire aspect of the matter the learned Trial Court in an admirably meticulous verdict rendered by it, found all the Appellants to be guilty in respect of the Charge of Sections 498A/34 of the Indian Penal Code. Accordingly, i) A1 was sentenced to suffer Simple Imprisonment for 3 years and to pay a fine of Rs. 5,000/-; in default, to suffer further imprisonment for six months. ii) A2 was sentenced to suffer Simple Imprisonment for one year and to pay a fine of Rs. 5,000/-; in default, to suffer Simple Imprisonment for four (4) months more. iii) A3 was sentenced to suffer Simple Imprisonment for 2 years and to pay a fine of Rs. 5,000/-; in default, to suffer further imprisonment for six months.

23. A2 was absolved of the charge of Sections 302/34 of the Indian Penal Code; but both A1 and A3 were held to be guilty in respect of the said charge of Sections 302/34 of the Indian Penal Code and they were sentenced to suffer imprisonment for life and to pay a fine of Rs. 5,000. In default, to suffer further imprisonment for one year.

24. This is the polygenic profile of the Prosecution Case and the resultant corollary that is the conviction and sentence which has been sought to be scuttled at the instance of the Appellants. We are required to see as to how far we can accede to the same.

25. Learned Counsel in support of the Appeal has formulated an assortment of points to recluse the Appellants from the trajectory consequent to their conviction. He picked up PW11, Maumita @ Rini a child witness to show at the first instance that as a child was prone to tutoring it was unsafe to rely on such evidence. Secondly, she (PW11) resiled from her earlier version made at the time of recording her Statement (Ext.8) u/s 164 of the said Code. Further it was submitted that at the time of recording her examination u/s 164 of the said Code while she was only 4 years old her faculty was not tested properly and although the incident took place on 22.5.91 her Statement (Ext.8) was recorded only on 03.8.91 which gave rise to the scope for improvement in her version. Reference was made to the decision of Arbinda Singh v. State of Bihar 1994 SCC (Cri) 1418 .

26. Next it was submitted by the learned Counsel for the Appellants that P.Ws. 1,4. 12, 17 and 20 were relatives of the deceased Anjana. The question of demand for dowry, as deposed by PW1 and PW4 was neither stated in the FIR nor in their earlier statement before the Investigating Officer. The fact of purported illicit relationship shared between A1 and PW9 was similarly brought out for the first time in Court. Referring to the evidence it was further submitted that there was discrepancy between the brothers with regard to the manner of

reporting about the death of their sister.

27. Placing heavy reliance on the evidence of the relevant witnesses who had seen blood from the nostrils of the deceased Anjana learned Counsel for the Appellants submitted that said story has not been supported by the Post Mortem Report nor is there any injury found on the nose. He further pointed out that the wearing apparels, which were originally seized, were not produced in Court, which was by itself a very serious circumstance operating against the Prosecution. According to him the vital part of the Prosecution was taken off from the consideration of the Court to assess as to at all whether blood, as spoken in the Prosecution evidence, is human blood and on account of the failure of the Prosecution to produce the original wearing apparels no chemical examination on the same was also forthcoming.

28. Learned Counsel for the Appellants further submitted that the evidence of the neighbours - P.Ws.3, 5, 7, 8 and 14 were not trustworthy and should not be given any importance and it would be absolutely hazardous to rely on the same.

29. With reference to the Medical Evidence learned Counsel for the Appellants submitted that upto the point of assault the Prosecution Case with regard to the cause of death of Anjana has halted. Evidence of the Medical Witnesses PW10 and PW21 in his view, particularly if read along with the evidence of the D.W., puts a big question mark on the cause of death of Anjana and it was highly unsafe to base an order of conviction on such evidence.

30. As a part of his submission learned Counsel for the Appellants referred to the decision of State of U.P. v. Chandrawati. (Smt.) 1998 SCC 371 to show where witnesses making improvement in their evidence it was unsafe to rely on such evidence. The 3-Judge Bench decision of the Supreme Court in Kali Ram Vs. State of Himachal Pradesh, was also relied upon by the learned Counsel for the Appellants to show that where the question of reasonability of doubt arises between the two alternatives the one which is favourable to the accused should be accepted by the Court. Lastly, the decision of Mohd. Zahid Vs. State of Tamil Nadu, was referred to on behalf of the Appellants to show that where there is a reasonable doubt in the cause of death it would be unsafe to rely on medical evidence.

31. Learned Counsel for the State controverted the entire submissions made of behalf of the Appellants. He would say that since the incident took place in the broad daylight in the presence of the daughter of the deceased Moumita (PW11), who was properly tested before being examined, there was no scope for disbelieving such evidence. According to the learned Counsel for the State that piece of evidence by itself was sufficient to accept the Prosecution Case and nothing more was required. He submitted further that PW8, an independent witness had seen the deceased Anjana being dragged by the Appellants through the court yard of the house to the room which has been also spoken by PW11, the child witness. As such, according to the learned Counsel for the State an

important part of the Prosecution Case has been proved thereby.

32. Coming to the evidence of the post-mortem doctor learned Counsel for the State submitted that Anjana died an unnatural death was absolutely clear from such evidence. He referred to the answer given by PW10. Dr. Das in pursuance of the queries raised by the Investigating Agency and showed that the nature of the injuries were ante mortem in nature and collectively the same were responsible for the cause of death. He took us to the opinion of the said doctor and submitted that there could not be any confusion with regard to the cause of death as has been tried to be made out on behalf of the Appellants as the said doctor (P.W. 10) was of the clear view that the injuries including the ligature mark, found by him, were sufficient to cause death in the ordinary course of nature. Learned Counsel for the State submitted that even if the Court excludes from its consideration the evidence of PW21, Prof. Nandi it can safely come to the conclusion with regard to the cause of death of deceased Anjana. He further submitted that D.W., Prof. Mukherjee, in fact, supported the Prosecution.

33. Learned Counsel for the State also submitted that even if there were some dent in the Investigation the defence cannot make capital out of it. He referred to the decision of State of U.P. v. Jagdeo and Ors. 2003 SCC 351 and submitted that on account of mere faulty investigation the accused cannot go unpunished: more so when through the evidence on record Prosecution has been able to prove its case. He referred to Sahadevan @ Sagadevan v. State represented by Inspector of Police Chennai 2003 SCC (Cri) 382 . He submitted that the wife was last seen alive in the company of her in-laws; as such, it was incumbent upon them to explain under what circumstances she passed away.

34. Learned Counsel for the State submitted that even if all other aspects of the matter are excluded from our consideration how could the Appellants overcome the situation when the dead body of the housewife has been found with multiple injuries under unnatural circumstances for which no explanation was forthcoming. He submitted that this by itself was a very incriminating circumstances against the innocence of the accused. He took us to the examination of A1 u/s 313 of the said Code and showed that it is for the first time he has stated therein that the child witness PW11 was in her maternal uncle's home. According to the learned Counsel for the State the stand taken was totally false. He also showed from the evidence of PW3, Dr. Ghosh and PW18, ASI, Hrishikesh Chatterjee that there was a careful attempt made by the Appellants to screen their offence by giving false explanation with regard to the actual incident. He also referred to the evidence of PW4 a neighbour who was also tried to be misled in similar fashion.

35. Learned Counsel for the State took much pains to place the evidence on record and submitted that the death of Anjana in her matrimonial home was a clear case of homicide for which all the Appellants were responsible. He ruled out the question of suicide and according to him the position of the room where the dead body of Anjana was found does not show it was bolted from inside and no

evidence was there suggesting suicide. He accordingly prayed for dismissing the Appeal.

36. We feel appropriate to advert to at first the submissions made at the Bar on the impact of the evidence of the child witness. In order to better appreciate the same we feel it would be expedient to reproduce the provisions of Section 118 of the Evidence Act which governs the field over the question of evidence of a child witness:

118. Who may testify.-All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

Explanation.-A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

37. At the outset we remind ourselves of *Mohamed Sugal v. The Emperor* AIR 1946 PC 3 where the Privy Council has held:

But in the Indian Acts there is no such provision and the evidence is made admissible whether corroborated or not. Once there is admissible evidence a Court can act upon it; corroboration, unless required by statute, goes only to the weight and value of the evidence. It is a sound rule in practice not to act on the uncorroborated evidence of a child, whether sworn or unsworn, but this is a rule of prudence and not of law.

38. Way back in the early fifties the Supreme Court in *Rameshwar Vs. The State of Rajasthan*, held that the child as a witness always gives the true version of a fact owing to its innocence but at the same time it is fraught with the danger of being tutored and influenced. As such, even though there is no legal bar in accepting the uncorroborated testimony of the said witness yet as a rule of prudence it would be safe to have corroboration unless the circumstances are so safe to dispense with the same. In other words, the caution of corroboration of a child witness is not a rule of law but a rule of prudence. When there is unimpeachable evidence which lend unfailing assurance to the version of the child the same can safely be accepted (see: *Suresh Vs. State of U.P.*,).

39. Even though there is no axiomatic provision of law to put preliminary question to a child witness to ascertain its mental capacity, it is, however, a wholesome course left for adoption. This wholesome practice followed by the Courts of law is not for sanctifying the evidence of the child but for the purpose of saving Judicial hours, so as to dissuade it from further examination of the witness who may be found to be incompetent. However, as practice of testing the capacity of a child is only a rule of prudence failure to do so cannot be a ground for rejecting such testimony if it otherwise appears to be reliable. While a child on account of his tender years and innocence of mind may be prone to tutoring

and grasp in his green intellect whatever is told to him but simply because the witness was a child of tender years it will not be proper to assume he is open to tutoring [see: Prakash and another Vs. State of Madhya Pradesh,] .

40. The child witness, PW11, Moumita alias Rini appears before us in two shapes. Firstly, her statement (Ext.8) recorded by the learned Judicial Magistrate, Pradip Kumar Rakshit (PW13) on 03.8.91 and secondly, her substantive evidence as PW11 on 19.7.95. A plain reading of her Statement (Ext.8) shows that she was asked to say whatever she likes on her own wish but it must be true. She blurted out how, when she was four years old, her father A 1 used to quarrel with her mother Anjana and on the fateful day her mother lay on her bed after being assaulted by her father A1, paternal aunt A3 and her Grand mother A2. She could not, however, remember any later incident.

41. Being versed with the tear-stained statement of the unfortunate Moumita we now proceed to see her substantive evidence in Court recorded after nearly four years.

42. A cursory glance at her deposition would even melt a heart of steel. She clearly deposed that after she rose in the morning and went to play in the court yard of their house, when her mother was drying the clothes, she was told by her that her hands are required to be cleaned; but, she did not listen and started running inside the court yard. At that point of time A3 called her inside a room for watching the television. Since she lost interest in the programme, she peeped through the window of the room and saw a quarrel ensued between A2, A3 and her mother in the court yard. In course of such quarrel her mother was assaulted with hands by A2 and A3. While her mother tried to run away for shelter in the room of her aunt the door was slammed on her face. Then she tried to escape in the bedroom where death awaited her in the disguise of A1, who came out with a door latch and assaulted her; as a result of which she fell down on the court yard then A2, A3 and A1 dragged her in the bedroom. After being further assaulted by A1, her mother fell on the bedstead. Her evidence further shows that she disclosed about the incident to her maternal uncle and also to the Police in their house.

43. The evidence of the child witness Moumita alias Rini (PW11) was not only spontaneous but it inspires confidence in the mind of the Court. We have carefully appraised her evidence with great circumspection and are of the firm opinion that even though there may be variation by way of lack of details in her Statement (Ext.8) recorded u/s 164 of the said Code by PW13 with her substantive evidence in Court, in sum and substance she has spoken about the greatest tragedy in her life, in her own impeccable manner without betraying any sign of embellishment or devilling, her version was trustworthy and innocent and not only did she understand the questions put to her, her demeanour manifested that she was not tutored in any fashion, more so when the surrounding evidence lends assurance to her evidence. [see: Dattu Ramrao Sakhare and Ors. v. State of Maharashtra 1997 SCC 685].

44. We have carefully considered the decision of Arbind Singh's case (supra) and find that as there is no trace of any tutoring and the version of the child witness was trustworthy and true, it can safely be accepted and we are afraid the said decision does not in any manner help the defence.

45. Recently the Supreme Court in *Ratansinh Daisukhbhai Nayak v. State of Gujarat* 2004 SCC 7 while dealing with a case involving evidence of child witness held:

A child of tender age can be allowed to testify if he has intellectual capacity to understand questions and given rational answers thereto.

46. The Supreme Court referring to a decision of the United States in *Wheeler v. United State* 159 US 523 further held:

The evidence of a child witness is not required to be rejected per se, but the Court as a rule of prudence considers such evidence with close scrutiny and only on being convinced about the quality thereof and reliability can record conviction based thereon.

47. Arbind Singh's decision (supra), relied upon by the learned Counsel for the Appellants, was also taken into account by the Supreme Court in the said decision. It would be also profitable to refer to the following portion of *Ratansingh Daisukhbhai Nayak's* case (supra):

The decision on the question whether the child witness has sufficient intelligence primarily rests with the Trial Judge who notices his manners, his apparent possession or lack of intelligence, and the said Judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. The decision of the Trial Court may, however, be disturbed by the higher Court if from what is preserved in the records, it is clear that his conclusion was erroneous. This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make-believe. Though it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shaken and moulded, but it is also an accepted norm that if after careful scrutiny of their evidence the Court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness.

48. In this case we have no hesitation in accepting the evidence of the child witness Moumita @ Rini (PW11) which appeals to us as to be fully acceptable and creditworthy.

49. After we have seen one part of the Prosecution Case, which relates the ocular version we at once switch over to the other witnesses on the point.

50. In juxtaposition to the evidence of the child witness we have on record certain aspects of her version, which has also been spoken by contemporaneous

witnesses, which makes her evidence more insoluble in the acid test put before her. She has narrated in her Statement (Ext.8) before the learned Judicial Magistrate (PW13) and also in her substantive evidence that she had seen her mother on the bedstead after being assaulted by the Appellants. She has been corroborated by her maternal uncles (PW1 and PW12), and her neighbours (PWs.3, 5 and 7) that the dead body of Anjana lay on her bed.

51. The child witness (PW11) has stated that after being cajoled by A3 come to her room for watching a television programme, when she lost interest in the same she peeped out of the window and saw that there was a "quarrel between my parental grand-mother and Malina Pisi, one hand, and my mother, on the other, was in progress in courtyard of that house." If we see the evidence of PW8 and PW14 for a while we would find corroboration with that part of her version.

52. PW8, Dilip Karmakar, as we have already noted even though turned hostile, was a very important witness. He was the next-door neighbour of the Appellants. He "found that a quarrel between Prithwish and his wife was in progress in the house of the accused persons. As the nose of the quarrel increased, I went on the roof of our house and noticed therefrom that Anjana Baudi was being dragged from one room to another. I could not see who was or were actually dragging her at that time." The cross-examination of PW8 by the defence after he was declared hostile practically proved fatal for it. "Our house is just to the adjacent west of the house of the accused persons. The courtyard of the house of the accused is to the east of their rooms."

53. The cross-examination further reveals that:

Our house is a two storied building. The house of the accused persons is one storied building.

54. PW14, Bishnu Das also stayed nearby and he saw on the date of occurrence A1, A3 and A2 "dragging Anjana Chowdhury inside the room. I then went away."

55. As such, the fact that her mother Anjana was dragged by the accused persons as stated by the child witness (PW11) found corroboration from the two other attending witnesses.

56. Evidence of Moumita, the child witness further shows that mother Anjana being refused shelter in the room of her elder aunt (Jathaima) she "tried to escape into her bed room" where death awaited her in the form of A1 who "came out of that bed room and assaulted my mother with a door-latch which had been kept just beneath a window of our room."

57. In fact, Dr. Das (PW10), the Additional Chief Medical Officer of Health, Alipore in his second opinion after seeing the door-latch (Mat. Ext.I) stated: "If a person is assaulted with door latch of this nature, he or she may sustain injuries Nos. 6, 7 and 12 as mentioned in my P.M. report."

58. In other words, the child witness (P.W.11) Moumita @ Rini, who has

withstood the volley of cross-examination, stands as firm as the Rock of Gibraltar.

59. It has been the cause of much concern for the learned Counsel for the Appellants that the original wearing apparels although seized by the Investigating Officer (PW25), Khagendra Nath Das against the Seizure List (Ext.13) yet the same were not produced before the Court. Stressing on that aspect he sought to make a foray into the tenets of the Prosecution Case on the basis of the said proposition that as the original wearing apparels could not be produced Chemical Examination Report based on the articles examined could not be sufficient to connect the Appellants with the crime.

60. Apparently this is a basic question and perhaps would have made us abide by his submission which may have some prima facie appeal. But, on a second look the entire fiasco would be cleared. Like a bad workman we should not quarrel with our tools (read the evidence and materials placed before us); but have to do justice on the basis of what has been placed before us either without bringing in record which is not before us or by way of excluding from our consideration what is there on record.

61. It has to be Just Desert.

62. The incident took place on 22.5.91. The written complaint (Ext.1) lodged by PW1 was treated as formal FIR (Ext.10) by PW25. The initial part of the investigation was conducted by PW23, Kartick Dey. He effected the seizure of conch shell, while coloured check sari with clotted blood-stained, snuff coloured blouse with clotted blood-stained and yellow coloured saya against a Seizure List (Ext.13). This seizure was attested by PW1 in the house of A1 at 19.45 hours of the very same day of the incident. He also seized a bolt of the door under a Seizure List (Ext.15) prepared by him.

63. Thereafter, on 25.9.91 the investigation was taken up by the CID and as such, he sent all the case record to the CID. On 23.3.92 he handed over the alamsats against a Challan (marked Ext.16) in favour of PW26, Sujit Banerjee of the CID. As we have held that it would not be proper to sit back and find loopholes in the investigation but we are required to salvage the truth from the debris of lapses. [see: State of West Bengal Vs. Mir Mohammad Omar and Others etc.,].

64. The entire picture would be clear if we look in details the evidence of PW26, Sujit Banerjee of the CID, who took up the investigation under the direction of DIG, CID, the reasons of which are not far to seek. At once it can be seen that on 09.1.92 he has asked PW23, i.e, the previous Investigating Officer "to hand over the wearing apparels for sending it to F.S.L., but the I.O. asked me to come on any next date. On 27.1.92 and 22.2.92 had been to the P.S. to the I.O. could not produce it.

On 23.2.92 I had been to Jadavpur P.S. and collected the wearing apparels of the victim.

65. After he received the said Alamat, as seen by us earlier, against the Challan marked as Ext.16 in presence of PW1 "found some discrepancies. It did not tallies with the description of the items as were in the seizure list. So, the complainant doubted the seizure of the items which were then collected by me from the previous I.O. In the seizure list there was a seizure of snuff coloured blouse and the check saree with stained of blood, but the saree and the blouse which were produced before me for collection did not tally with the descriptions as shown in the S.L. One maroon coloured blouse and saree were produced. The saree was not so much stained with blood."

66. Such position speaks for itself. The evidence of PW26, Sujit Banerjee being quite self-explanatory on this point takes care of the grievance of the learned Counsel for the Appellants that the original wearing apparels were not produced. Just for a moment we would like to digress to the evidence of PW20, Krishna Dasgupta, a niece of the deceased Anjana. She was in the bedroom of Anjana beside her dead body. When the Police came she was asked to remove the wearing apparels of Anjana. She took off the garments saree, saya, blouse etc. of Anjana and handed over those garments to the Police. Then Anjana was covered with another place of cloth. During the time of her deposition she stated, on being shown the saree and blouse that these are not those saree and blouse. Her evidence is of contemporaneous importance on the question of transposition of the Alamats.

67. It appears from the evidence that PW26, Sujit Banerjee seized the photographs of the deceased (Mat. Exts. II and III) under a Seizure List (Ext.17) as produced by PW1. He also sent the collected saree, blouse for F.S.L. examination and took great initiative by way of sending questionnaires to Dr. Das (PW10), the Autopsy Surgeon on 6.4.92 and also to Prof. Apurba Kumar Nandi, Professor & Head of the Department of Forensic Science & State Medicine, Calcutta Medical College and Hospital. The F.S.L. Report, received by him, was marked as Ext.23 after the submission of charge-sheet.

68. Even if there has been some remissness on the part of the Investigating Officer (PW23) attached to the Jadavpur Police Station the same seems to have been covered by the commendable performance of PW26, Sujit Banerjee of the CID, who we must say has done a good job and showed extreme dynamism and keen interest to solve the case.

69. It has been of great agony for the learned Counsel for the Appellants that the neighbouring witnesses - PWs. 3, 5, 6, 7, 8 and 14 for the first time spoke various details in Court and as such, their evidence were liable to be scuttled within the scope of the ratio of the decision of State of U.P. v. Chandrabati (Smt.) (supra).

70. We find that the neighbouring witnesses have, in fact, supplemented the Prosecution Case, seen through the eyes of the child witness Moumita (PW11) and other spread out circumstances. Even though PW8 turned hostile he, as seen

by us earlier, has spoken about the substantial part of the Prosecution Case which is at par with the other evidence on record.

71. P.Ws. 3, 5, 7 and 14 have deposed with regard to the various important aspects of the Prosecution Case like assault, dead body of Anjana lying on her bed with blood on her wearing apparels, hearing of quarrel etc. It would be palpably improper on our part if we discard the evidence of the neighbours - PWs. 3, 5, 6, 7, 8 and 14 simply adopting the logic put forward by the learned Counsel for the Defence that PW14 being a deed writer was an interested witness and as the brothers of deceased Anjana - PW1 and PW12 also belongs to the same profession and PW7 and PW5 being political personalities had axes to grind with the Appellants and that PW3 had used to visit the tubewell near the house of the Appellants although there were many other tubewells near his house. This submission absolutely bears no significance and has to be discarded out right.

72. The evidence of the near ones of Anjana - PW 1, 12 and 17, her brothers and PW4 her sister-in-law (Baudi) and PW20 her niece not only speaks about the main Prosecution Case but also gives a vivid description of the sordid matrimonial life of Anjana in the house of the Appellants. If we read the evidence of the neighbours and the relatives of Anjana we find that they are quite supplementary to each other and lends assurance.

73. A flurry of points have been put forth by the learned Counsel for the Appellants to discredit the medical evidence on record. It was tried to be proved that since the Medical Evidence was not conclusive with regard to the course of the death of Anjana we should simply stop with the assault part, played by the Appellants and as spoken by the child witness (PW11) in the light of the injuries on Anjana.

74. Before dissecting the detailed submission of the learned Counsel for the Appellants on this point we feel it would be more appropriate to refer to the evidence of the Autopsy Surgeon (PW10), Dr. P.B. Das, who at the relevant time was the Additional Chief Medical Officer of Health, Alipore. The main concern of the learned Counsel for the Appellants was that the post-mortem doctor did not see blood in the nostril of Anjana and that ligature mark was not noticed by the witnesses, who came to the place of occurrence soon after the death of Anjana. PW10, Dr. Das was a man of great experience. Dr. Das held the post-mortem Examination on the body of Anjana on 23.5.91. He noticed at least 13 injuries on her body (clarified as one more). Dr. Das stated: "Death in my opinion was due to the effect of hanging associated with some other injuries stated above, ante-mortem in nature."

75. Let us stop here.

76. As we have found earlier it is the drive and the initiative of PW26 of the CID which gave the Investigation a new dimension, certain queries were made by the Investigating Agency with regard to cause of Anjana's death. At least 19 questionnaires in total against two separate sets of queries were sent to Dr. Das

(PW10) and after replying to the same he opined:

The injuries which have been mentioned in my P.M. report including the legature mark were sufficient to cause death in the ordinary course of nature.

77. Dr. Das as the Additional Chief Medical Officer of Health, Alipore had sixteen years experience behind him.

We find from the evidence of Sujit Banerjee (PW26) -

On 10.7.92 we wanted to collect the reply of the questioner from Dr. P.B. Das, but he did not send it. So, as per instruction of our superior officer, I referred the matter to Dr. Apurba Nandy by a letter along with the questioner.

78. In the mean time, however, Dr. Das gave his final opinion. The opinion of Prof. Nandi, Professor & Head of the Department of Forensic Science and State Medicine, Calcutta Medical College & Hospital and its Vice-Principal was marked as Ext.12.

79. Prof. Nandi, Professor & Head of the Department of Forensic Science and State Medicine, Calcutta Medical College & Hospital and its Vice-Principal opined:

...giving due consideration of all aspects discussed in my report, I was of the opinion that the death of the said Anjana Chowdhury might have been due to the effect of hanging preceded by assault and injury leading to unconsciousness before being hanged. The nature of death is homicidal. The legature material as stated by the Autopsy surgeon could be anything like thin row or a chain or electric wire or for that purpose any of the many ordinarily useable house-hold materials.

80. His report was marked as Ext.11.

81. Umbrage was taken by the Appellants" learned Counsel that PW26 had placed before Prof. Nandi many extraneous papers which were not relevant for the purpose of arriving at his opinion. Learned Counsel for the Appellants referred to the cross-examination of Prof. Nandi and showed that the FIR, details of U.D. case, statement of PW3 amongst others were given. We shall come to that objection at the right moment.

82. But, before proceeding any further we have to advert to the defence Evidence of Prof. Jagat Bandhu Mukherjee, Former Professor and Head of the Department of Forensic Science and State Medicine, Calcutta Medical College & Hospital and Principal of the Medical College. Prof. Mukherjee was examined as a Defence Witness. He, in our view, did not in any manner help the Defence Case.

83. A plain reading of the evidence of Prof. Mukherjee, D.W.1 would show-

Q. Do you agree that whether the injuries found on the subject may be marks of violence and resistance.

Ans. The injuries as noted suggest evidence of violence.

84. I admit that in a case of suicidal hanging the marks of violence on the body of the victim are absent.

85. By injury Nos. 5 and 9, I wanted to mean two bruises and injury No. 11 is a haematoma.

Bruises as has been defined in my Book.

"Forensic Medicine and Toxicology", I wanted to mean that bruises or contusions are injuries characterized by infiltration of extravasated blood into tissue spaces following rupture of capillaries of the subcutaneous and subepithelial tissues, as a result of application of blunt force or violence. In bruises, usually there is no loss of continuity of the skin overlying.

86. By unilateral injury I want to mean "injuries are found on the same side of the body and conlateral means the injuries are found on the opposite and both sides of the body".

Q. Can a stunned person commit suicide?

Ans. During the stunned period, she/he will not be able to commit suicide.

Q. Do you agree that the abrasion at the back at different places suggests marks of dragging?

Ans. I do not agree.

87. Yes, I agree as per my writings at page 495 in my book that it is very difficult, for a single handed accused to homicidally hang his victim unless the adult victim is rendered unconscious or is unable to resist by injury specially head-injury or by drink or drug, or attached while asleep or taken unaware. It is also possible when the assailant is strong but the victim is weak, infirm, debilitated by disease, infirmity or deformity or if the victim is a child, young adolescent, old or a lady not strong enough to offer resistance and even it can be done by a person single handed, specially when there is notable and unusual disproportion between the victim and the assailant.

88. In view of the position which has been perceived by us on the basis of our appreciation of the evidence of D.W.I, Prof. Mukherjee we need not go into the submission of Shri Bagchi with regard to the opinion of Prof. Nandi, PW21 before whom certain extraneous items were placed for consideration as we are of the opinion that in the event the evidence of the Autopsy Surgeon, PW10 and the evidence of D.W.I, Prof. Mukherjee are taken into account, they are mutually supplementary of each other and on the contrary completely belies the defence case of suicide by hanging as has been sought to be proved and lends support to the prosecution case with regard to a homicidal death as spoken by PW10, Autopsy Surgeon.

89. In this context we are tempted to refer to a Division Bench decision of our Court in The Queen v. Ahmed Ally and Ors. 1869 The Weekly Reporter Vol- XI,

Criminal Rulings by D. Sutherland where Norman, J. writing the Judgment for the Division Bench of J.P. Norman and E. Jackson; JJ. held:

The evidence of a medical man, or other skilled witness, however eminent, as to what he thinks may; or may not have taken place under a particular combination of circumstances, however confidently he may speak, is ordinarily a mere matter of opinion. Human Judgment is fallible. Human knowledge is limited and imperfect.

90. Sir Shadi Lal. the Chief Justice of the Lahore High Court speaking for the Division Bench of the Lahore High Court in Hari Singh - Caveator - Appellant v. Sardarni Lachmi Devi 1921 Indian Cases Volume LIX page 220 on behalf of the Division Bench of Sir Shadi Lal, the Chief Justice and Leslie Jones, J. in exercise of its Letters Patent Jurisdiction while hearing an Appeal against the Judgment of Wilberforce, J. quoted with approval our Division Bench decision of The Queen v. Ahmed Ally and Ors. (supra) rendered by J.P. Norman and E. Jackson, JJ.

91. We also find that in Piara Singh and Ors. v. State of Punjab 1977 SCC 614 S. Murtaza, Fazal Ali, J. writing for the Division Bench consisting of S. Murtaza Fazal Ali and P.S. Kailasam, JJ. held:

6. We find ourselves in complete agreement with the observations made by the Calcutta High Court in the aforesaid case and hold that where the opinion of a medical witness is contradicted by another medical witness both of whom are equally competent to form an opinion the opinion of that expert should be accepted which supports the direct evidence in the case. Apart from this, in the instant case it appears that Dr. Jatinder Singh had the initial advantage of examining the deceased and holding his post-mortem and observing the nature of the injuries on the body of the deceased. His opinion is therefore based on first hand knowledge and would be in any event preferable to Dr. Paramjit Singh who did not have the advantage of seeing the deceased or the injuries on his body but deposed purely on the basis of the description of the injuries given by Dr. Jatinder Singh. For all these reasons therefore we would prefer the evidence of Dr. Jatinder Singh to the evidence of Dr. Paramjit Singh.

92. We have seen the evidence of the Autopsy Surgeon (PW10). PW10, Dr. Das was of the view that the injuries found by him were sufficient to cause death in the ordinary course of nature. PW10, Dr. Das further stated that the injuries No. 6, 7 and 12 can be caused by the door latch (Mat. Ext. I), when shown to him.

93. If we correlate this part of Dr. Das's evidence to his first opinion immediately after he conducted the post-mortem examination that death in his opinion was due to the effect of hanging (?) associated with some other injuries stated above which are ante mortem in nature the Prosecution case proceeds to a great extent.

94. It is true that several documents including the First Information Report etc. were produced before Prof. Nandi which was not the subject matter for his consideration as rightly pointed out by Shri Bagchi. We accept the submission of

Shri Bagchi on this point. But even if we exclude from our consideration the evidence of Prof. Nandi it would hardly have any effect on our decision in view of our earlier finding that simply the evidence of Autopsy Surgeon, PW10 and D.W.1, Prof. Mukherjee goes to establish a clear case of homicidal death.

95. Absence of blood in the nostrils which has been spoken by the Autopsy Surgeon (PW10) in his Post-Mortem Report has hardly any bearing on the cause of death of Anjana. Even though many of the witnesses present beside the dead body have noticed blood in her nostrils which was also noticed by PW23 at the time of inquest, the failure on the part of the said witnesses to notice ligature mark and difference of opinion with regard to the theory of hanging even if is kept in the back burner the evidence of the child witness (PW11) that A1 had assaulted Anjana with a door latch (Mat. Ext.1) as a result of which she fell on her bed and gradually became speechless has to be understood within the sweep of the evidence at the very blush when Dr. Das (PW10) conducted the post-mortem examination. Dr. Das stated that if a person is assaulted with the door latch (Mat. Ext.1) he or she may sustain injury Nos. 6, 7 and 12, noted in his P. M. Report and his finding that the injuries which he has noted in his P.M. Report including the ligature mark (let us leave it for present) were sufficient to cause death in the ordinary course of nature, we feel nothing more remains for discussion.

96. It is the clear evidence of PW7, Babli Chakraborty, an independent witness that she found many marks of injury on her back. PW17, the Magistrate, who held the Inquest at the Dead House of M.R. Bangur Hospital also found injuries on the side of her left breast, left elbow. PW23 who also conducted the Inquest in the house of the Appellants also noticed many injuries below the left breast and ecchymosis on the lower portion of back and the waist.

97. From a very close consideration of the Medical Evidence we cannot come to any other conclusion except that the death of Anjana was homicidal and it is the Appellants who had done her to death.

98. So far as the question of blood not being found at the time of the post-mortem examination, as heavily relied upon by the learned Counsel for the Appellants, which may be for several reasons, we feel the ocular version cannot be eclipsed simply on account of the failure of the autopsy surgeon to notice such blood. Ocular evidence always has to be given primary over medical evidence unless it totally improbably the ocular version. [(see: State of Rajasthan v. Bhanwar Singh 2005 SCC 73)]

99. On the contrary, we find there is much substance in the submission of the learned Counsel for the State. The decisions - State of U.P v. Jagdeo and Ors. (supra) and Sahadevan alias Sagadevan v. State (supra) cited by him absolutely fit in with the situation of the present case and we find simply because there was some remissness in the investigation, as noticed by us, prosecution cannot suffer. The argument of the learned Counsel for the State that the dead body of

Anjana was found in her bedroom after she suffered an unnatural death, could not be explained by the Defence also is of great impact.

100. Further it passes beyond our comprehension, in view of the evidence, already on record, that Anjana who was assaulted by the A-1 with a door-latch (Mat. Ext.I) as a result of which she practically slumped on her bedstead where in fact her body was found by all the relevant witnesses, as to whether she was at all in a position to regain her strength to stand up and collect the wire for the purpose of committing suicide. Further it is not found anywhere that she regained consciousness after such incident of assault, far less to speak that she was in a position to walk up to a place for putting an end to her life by strangulating herself with a wire which has not been seized.

101. It is also not explained by the defence that if it was a case of suicide, who brought down the dead body from the hanging position as it is already found from a galaxy of evidence (PWs 1, 4 and 12) including the Investigating Officer that the body was found on the bedstead.

102. It is also quite surprising that the dead body was brought down without giving any information to the Police about factum of such suicide. Furthermore, the evidence of PW2 who, although, turned hostile completely belies the defence case of suicide as he was informed that the deceased received electric shock as a result of which she met with her unnatural end. It is most natural for every normal human being to have spoken the actual incident in the event there was a real case of suicide, at least to the doctor.

103. On the basis of our detailed analysis of the evidence and materials on record in the light of the argument, made at the Bar, we feel that the homicidal death of Anjana in her matrimonial home has been sufficiently proved by very strong evidence which could not be shaken in the cross-examination.

104. Furthermore, the very fact that Anjana, the bride of just 5-plus years with a little girl child died an unnatural death in her bedroom is itself a circumstance which militates against the Appellants who have not given any explanation thereof. (see: *Ganeshlal v. State of Maharashtra* 1993 SCC 435 & *Kundala Bala Subrahmanyam and Anr. v. State of Andhra Pradesh* 1993 SCC 655 .

105. That, apart from any other aspect of the matter, the deceased Anjana was residing in her matrimonial home in the company of the Appellants and her in-laws where she met with her unnatural end was itself a circumstance cause of which remains unexplained and heavy onus lay on the Defence. Failure on its part to discharge the said onus inculcates the Appellants in a major fashion. (In this context also see: *State of Karnataka v. Bhoja Poojari and Anr.* 1998 SCC 184 and *State of Rajasthan Vs. Mahavir @ Mahavir Prasad,]*.

106. Alibi, if proved successfully, is one thing; but, if misfires if acts as a boomerang (although falsity of plea of alibi by itself does not prove the Prosecution Case]. Merely a false plea of alibi would not be sufficient to hoist the

guilt on the Appellant. [see: Gayadin Vs. State of M.P.,]. But, however, when the Appellant fails to prove alibi it rebounds upon him and strengthens the Prosecution Case. In the present case we find there has been a concerted effort on behalf of the Defence to misguide the Investigation by putting up a false plea of alibi

107. Evidence of PW3, Paltu Bhattacharya, a neighbour of the Appellants shows that Pijush the younger brother of A1 told him that Anjana died from electric shock. It would be of much importance to refer to the evidence of PW18, ASI, Hrishikesh Chatterjee of the Jadavpur Police Station who took down the information (Ext.9) lodged by Paritosh Chowdhury the Elder Brother of A1 on 22.5.91 to the effect that A1 and Anjana had a quarrel and she was not responding. PW2, Dr. Ghosh was called in and it was apprehended that Anjana might not live any more. It would even be more clear from the evidence of PW2, Dr. Chaitanya Ghosh, who turned hostile that the A1's brother informed him that Anjana had suffered electric shock and he was asked to examine her. As such, there appears several conflicting versions of the death of Anjana which only makes the defence case extremely hollow.

108. Keeping in mind the entire facts and circumstances of the present case we find that Anjana was subjected to mental cruelty and torture by the Appellants which have been proved beyond all reasonable doubt through the evidence of the relevant witnesses. The Prosecution, in our view, has been quite successful in proving the charge of Sections 498A/34 of the Indian Penal Code against all the Appellants for causing torture upon Anjana as spoken by the relevant witnesses.

109. That the homicidal death of Anjana in her matrimonial home under circumstances, seen by us, has also been satisfactorily proved by the Prosecution. While we do not wish to comment on the acquittal of A2 from the charge of Section 302 of the Indian Penal Code as neither the State has preferred any Appeal against the same nor was there a Rule issued at the time of admission of this Appeal, but we are of the considered view that the Prosecution has been able to prove the said Charge against A1 and A3 beyond all reasonable doubt.

110. In the given situation even if we take a most charitable view of the circumstances, no other conclusion except the guilt of the Appellants surface before us. The decision of Kaliram's case (supra) in our most humble view cannot be of any help to the Appellants.

111. Before parting, we have also apprised ourselves with regard to the substantive sentence of imprisonment in respect of the Charge of Sections 498A/34 of the Indian Penal Code particularly so far as A2 and A3 are concerned. Suffering of Anjana in her matrimonial home for the demand of dowry and her ultimate death does not appeal to us to interfere with the sentence in respect of the charge of Sections 498A/34 of the Indian Penal Code which, on the contrary, we feel is a "flea bite" sentence.

112. Accordingly, having found no merit in the Appeal we dismiss the same.

113. Since A2 and A3 are on Bail they are directed to surrender to their Bonds forthwith.

Bail Bonds stand cancelled.

Appeal dismissed.

Before we part, we would place on record our deep appreciation of the drive and initiative, of Shri Sujit Banerjee (PW26), the subsequent Investigating Officer, who has shown great professional skill in performing his job. We would request the learned Registrar (Judicial) to communicate our appreciation to the Director General of Police, Government of West Bengal, Writers' Buildings for onward communication to Shri Banerjee.

Dipankar Datta, J.

114. I agree.