

# SUPREME COURT OF INDIA

Kiriti Pal

Vs.

State of West Bengal & Ors.

Crl.A.No.471 of 2011

(T.S.Thakur, R.Banumathi., JJ.)

16.04.2015

## JUDGEMENT

### **R. Banumathi, J.**

1. These appeals by way of special leave arise out of the judgment dated 20.6.2012 passed by the High Court of Calcutta in Death Reference No. 3/2011 and Criminal Appeals No. 471/2011 and 484/2011 confirming the conviction Under Section 302/120B Indian Penal Code and modifying the death sentence as that of life imprisonment and further confirming the conviction and sentence imposed on the Appellants -accused Under Section 25(i)(a)(b) of the Arms Act. Briefly stated, case of the prosecution is that deceased Anjali Goswami was married to one Karuna Sindhu Goswami. Her husband used to run a line hotel at Mohd. Bazar and he died in a road accident in the year 2000. Her daughter committed suicide in the year 2006 and son also died in a road accident in the year 2008. Anjali started looking after the business of line hotel of her husband but subsequently leased out the same to PW14 -Bhagyadhar Dhibar and started a beauty parlour and a cloth shop at Mohd. Bazar which she subsequently shifted to Suri in a rented accommodation of PW10 -Manash Chakraborty. Fourth Appellant -accused Durga Sutradhar was engaged by Anjali to run her beauty parlour. Anjali purchased a house at Nutanpally, Suri and started residing there. While so residing, first accused Kiriti Pal became acquainted with Anjali and developed friendship and intimacy and frequently used to visit Anjali's residence.

2. On the fateful day of 11.11.2008, deceased -Anjali saying that she has to attend a function at Rajnagar went out with first accused on his motor cycle and on the following day i.e. 12.11.2008, she was found dead. On the basis of complaint lodged by PW1 -Swapam Mondal on 12.11.2008, around 9.45 a.m. a case was registered at Sadaipur P.S. Case No. 74/2008 Under Section 302 Indian Penal Code on the death of unknown female lying in a jungle locally called as Babuibona Jungle 25 kms. away from Anjali's house. Her neck was tied with one end of saree she was wearing and the other end of the saree was tied with tree (Sonajahuri) suggesting that the death was homicide. PW37 -Santosh Kumar Ghosh, Sub Inspector of Police, who registered the F.I.R. had taken up the initial investigation. PW37

inspected the spot and arranged for photographs and made seizure and recovered material articles from the spot where the dead body was lying. Dead body was identified as that of Anjali Goswami by PW8 -Arunasish Goswami, nephew of the deceased. PW37 conducted inquest and sent the dead body for post -mortem examination. PW29 Dr. Debasis Sarkar conducted autopsy on the body of Anjali and found lacerated wounds over parietal area and left frontal area and other injuries on the body of the deceased and issued ext. 27 post -mortem certificate opining that the injuries were ante -mortem in nature and were sufficient to cause death in the ordinary course of nature. PW29 also opined that injury found in the labia minora could be caused by forcible sexual intercourse on a woman. Pw38 Ardhendu Sekhar Pahari, Inspector CID taken up the matter and conducted further investigation. First accused Kiriti Pal was arrested on 15.1.2009 and based on his confessional statement, he seized Hero Honda motor cycle black colour bearing No. WB -54D/8148 and other objects. Based on his statement, A -4 Durga Sutradhar was also arrested on 15.1.2009. Based on his confessional statement, second accused Siddique Mia and third accused Mustaque Mia were arrested on 16.1.2009. Pursuant to the statement of Siddiquie Mia Pw38 seized one TVS Fiero red colour motor cycle bearing No. WB -54B/8245 with its key and mobile nokia handset marked as seizure list Ext/17/3. Pursuant to statement of A -2, A3 Mustaque Mia led to the recovery of one nokia mobile handset, one gold finger ring with inscription of letters 'Anjali', one silver made chain with one amethyst and red coral fitted with it were seized under Ext. 18/3. During the course of investigation, Pw38 collected the call details of the accused and also the phone of Saraswati Pal wife of Kiriti Pal -first accused. Investigation revealed that the murder was a result of conspiracy between all the four accused. After completion of investigation, charge sheet was filed against three accused, A1 to A3 Under Section 302/120B/34/376(2)g) Indian Penal Code and Sections 25, 27, 35 of the Arms Act. Fourth accused Durga Sutradhar was charged Under Section 120B read with Section 302 Indian Penal Code.

3. The accused were committed to the sessions court where the charges were framed against the accused and the Appellants -accused pleaded not guilty. To bring home the guilt of the accused, the prosecution has examined 38 witnesses and exhibited number of documents and material objects. Upon appreciation of evidence, the learned Sessions Court vide its judgment dated 26.7.2011 and 29.7.2011 convicted the Appellants A1 to A3 for offences Under Section 302 Indian Penal Code and sentenced them to death. Appellants A1 to A3 were also convicted for the offence Under Section 376(2)(g) Indian Penal Code and each of them were sentenced to undergo life imprisonment with fine of Rs. 5,000/- each with default clause. For conviction Under Section 120B -criminal conspiracy to commit the murder, all the Appellants -accused were sentenced to imprisonment for life with fine of Rs. 5,000/- each with default clause. For the conviction Under Section 25(1)(a)(b) of the Arms Act, Appellants 1 to 3 were sentenced to undergo imprisonment for three years and to pay a fine of Rs. 5,000/- each with default clause. ;