

CRIMINAL APPEAL

Present: **The Hon'ble Mr. Justice Ashim Kumar Banerjee**
And
The Hon'ble Mr. Justice Kishore Kumar Prasad

Death Reference Case No.3 of 2008

WITH

CRA NO. 805 OF 2008

Judgment on: March 30, 2010.

Shyam Yadav & Gandhi Devi Yadav
-VS-
State of West Bengal & Others

POINTS:

OCULAR EVIDENCE, CAPITAL PUNISHMENT- Dead body recovered from the house of the victim-Complete silence of the appellants whether can lead to an adverse inference -Single person whether could commit the murder and thereafter bury the dead body by digging up the floor-No attempt by appellants to enquire from the police station regarding whereabouts of the victim-Appellants did not lodge any complaint with the police at any point of time-No attempt by daughter to save mother- Impose of capital punishment whether proper-Indian Penal Code, 1860 Ss. 302, 201, 34 - Code of Criminal Procedure Code, 1973 Ss. 313,366(1)-Evidence Act, 1872 S.106.

FACTS:

Bisheswar and Gandhi Devi were residing in Siliguri at Baikuntha Palli, in their own house having nine rooms including one kuccha room having bamboo structure. Shyam was also residing in the same house. Bisheswar was a rickshaw puller, mainly involved in transportation of tea leaves. He had another land which he sold off at Rs.2.51 lakhs to make arrangement for his daughter's

marriage. Bisheswar left with Rs.1.75 lacs for Madhepura where he did not reach. He was thereafter not seen by any one either at Siliguri or at Madhepura.

His wife enquired of Bisheswar from Sadananda, whether he had reached Bihar. Similar telephone call was made to Sanjana in the morning as well as in the evening. However, during evening telephone call Gandhi Devi was weeping when Sanjana told her to visit her. Gandhi Devi never lodged any missing diary with the local police station. Written complaint was made only on December 26, 2005 by Sadananda at Bhaktinagar Police Station after being informed by “vanwallas” that Bisheswar might have been killed and buried in his own room. The floor was cemented by three masons engaged at the instance of the appellants. A lady in the house lit up an Agarbatti in the room, possibly offering respect to the departed soul. Police with the help of the local people dug up the floor of a kuchha room in the presence of a Magistrate and unearthed the dead body on December 26, 2005. The learned Sessions Judge held Gandhi Devi and Shyam guilty of the offence and convicted them under Section 302, 201 read with 34 of the Indian Penal Code. According to the learned Judge, this was rarest of the rare cases and as such sentenced them for capital punishment. Hence, this appeal by Gandhi Devi and Shyam.

HELD:

When the dead body was recovered from the house of the victim as well as the appellants, the appellants, must owe an explanation. Complete silence on their part would obviously lead to an adverse inference to be drawn under Section 106. However, when the circumstances demand an explanation from the accused to unfold the narrative that is within their special knowledge total silence on their part must go as against them. Otherwise it would be travesty of justice if the Court releases the accused in criminal trials in absence of ocular evidence. Para-2

It was not possible for a single person to commit the murder and thereafter bury the dead body by digging up the floor. The appellants were close to each other. Even if it is not proved that such relationship was illicit from the evidence of Pradip Roy, an independent witness, the relationship was established. Pradip says, it was “good”. Neither of them made any attempt to enquire from the police station regarding whereabouts of the victim. They also did not lodge any complaint with the police at any point of time. When the police came with the mason to dig up the floor both the appellants resisted and cautioned the police that in case they were unsuccessful they would be proceeded with in accordance with law. When a child loses one of his/her parents as a natural course he/she would not let the other to be lost and consequentially he/she would try his/her best to save the other. In the present case, Sanjana lost her father. Even then Sanjana did not make any attempt to save her mother. According to her, her mother was good, but spoiled by Shyam. This piece of evidence is certainly incriminating and leads to conviction of both. Paras-24&25

On the sentence, joining issue, the Learned Court does not find any special feature for which it could come to a conclusion that it falls under rarest of the rare category to have a capital punishment. Para-26

CASES CITED:

- 1) *State of Uttar Pradesh –VS- Satish All India Reporter, 2005, Supreme Court, Page-1000*
- 2) *State of Rajasthan –VS- Kashi Ram 2005 (I) Calcutta Criminal Law Reporter (Supreme Court), Page-366 and 2007, Volume-I, Supreme Court Cases (Criminal), Page-688*

For the Appellant : Mr. Saswata Gopal Mukherjee
Mr. Debasis Mukhopadhyay
Ms. Aiswarya Gupta

For the State : Mr. Y. Dastoor
Mr. Prabir Majumdar

THE COURT:

1. One Bisheswar Yadav was residing in Baikuntha Palli, Police Station Bhakti Nagar, Siliguri. He sold one of his properties at and for a sum of Rs.2.51 lacs. His daughter was getting married at Bihar. He left his residence at Bhaktinagar along with a sum of Rs.1.75 lacs for Bihar for his daughter's marriage. He was last seen at Bhaktinagar on December 8, 2005. After he went missing, his wife Gandhi Devi, the appellant no.2 above named, did not lodge any complaint with the Police Station. She, however, telephoned PW-1 to enquire whether Bisheswar had reached Bihar or not. After five/six days, PW-1 again enquired about Bisheswar over telephone when Gandhi Devi told him that she did not lodge any missing diary. PW-1 wanted to come to Siliguri. Gandhi Devi told him to stay back and informed him that she would come to Bihar within two/three days. Gandhi Devi accordingly went, however, did not visit the house of PW-1. Gandhi Devi went to Madhepura where her daughter Sanjana was residing. PW-1 came to know that Gandhi Devi had been visiting Madhepura with Shyam Yadav, the appellant no.1 who was staying with Bisheswar and Gandhi Devi in their Bhaktinagar residence. PW-1 went to Madhepura and met Gandhi Devi. Gandhi Devi told her that she was suspecting Umesh, Chandra Kishore and Khoka Yadav in the matter of disappearance of Bisheswar. PW-1 informed Gandhi Devi that since December 7, Umesh was in Bihar. According to PW-1, Shyam Yadav was involved in abduction of Bisheswar.

2. PW-1 then came to Siliguri and lodged a complaint on December 26, 2005 suspecting Gandhi Devi and Shyam Yadav having killed Bisheswar and buried him in a room in the premises where they were living. Police came and with the help of masons dug up the floor of a kuchcha room

having bamboo structure and unearthed the dead body of Bisheswar in presence of a Magistrate being PW-15.

3. Gandhi Devi and Shyam were arrested. They pleaded innocence and faced trial. The learned Sessions Judge held them guilty of the offence and convicted them under Section 302, 201 read with 34 of the Indian Penal Code. According to the learned Judge, this was rearest of the rear cases and as such sentenced them for capital punishment.

4. Hence, this appeal by Gandhi Devi and Shyam.

5. The death reference was made to this Court under Section 366(1) of Criminal Procedure Code for confirmation of the sentence passed against the appellants before this Court. The appeal of the accused and the death reference case were heard together and this judgment will govern both the reference and the appeal.

6. Altogether twenty witnesses were examined by the prosecution. The defence neither adduced any evidence nor offered any explanation while being examined under Section 313 of the Criminal Procedure Code.

7. PW-1, Sadananda Yadav, the brother of Bisheswar reiterated what he had stated in the written complaint made before the police. Elaborating his stand, PW-1 stated that on December 8, he received a call from Gandhi Devi that Bisheswar had left Siliguri with 10 k.g. tea and a sum of Rs.1.75 lacs for the purpose of marriage of Sanjana, their daughter. The marriage was scheduled

on December 13, 2005. Sadananda told her that Bisheswar did not arrive at Bihar. After five/six days, Gandhi Devi again telephoned him and enquired of Bisheswar. Getting a negative reply, she advised him to stay back and expressed her desire to go to Bihar on the next day. She also informed that she had not yet lodged any missing diary with the police. After five/six days Gandhi Devi, being accompanied by Shyam visited Madhepura where Sanjana was staying. On being informed by would be father in-law of Sanjana, Sadananda went to Madhepura and met Gandhi Devi. Gandhi Devi told him that she was suspecting Umesh, Chandra Kishore and Khoka in the matter of missing of Bisheswar. Sadananda informed Gandhi Devi that Umesh had been with him in Bihar since December 7. Sadananda however suspected Shyam in the matter of abduction of Bisheswar. According to Sadananda, the land was sold on or before December 5, 2005. After meeting Gandhi Devi at Madhepura Sadananda rushed to Siliguri and tried to search out Bisheswar. The neighbours advised him to lodge a diary. Sadananda informed Gandhi Devi over phone at Madhepura. Gandhi Devi arrived on the next day at 5 a.m. along with Shyam. Sadananda lodged a complaint with the Police Station written by Chandra Kishore. After lodging the complaint, Sadananda came to know from "some vanwalas" that Bisheswar might have been murdered and the dead body was buried in the room. Ultimately, the floor was dug up and the body was unearthed in the presence of a learned Magistrate. The victim was forty/forty-two years old at the time of the unfortunate incident, as told by Sadananda in cross-examination. He also admitted that he did not lodge any missing diary at Bihar. PW-2 Sanjana, the daughter of the deceased deposed that Shyam was residing in the same house as a tenant. He initially paid rent and thereafter stopped. The relationship between Bisheswar and Shyam was cordial. Bisheswar loved Shyam as his brother. After her marriage was settled she went to Madhepura according to the wishes of her in-law's family. Bisheswar gave Rs.11,000.00 to the in-law's family initially and thereafter the land was

sold at Rs.2.51 lacs on December 7, 2005. Bisheswar talked to Sanjana over telephone and informed her that he would be coming on the next morning with money. On December 9, Gandhi Devi telephoned her and enquired of Bisheswar. She again telephoned in the evening on the same day and she was weeping. According to her, Bisheswar was murdered for grabbing the money arranged for her marriage. She deposed that her mother was not so bad but since Shyam started residing there he used to offer her mother drinks and cigarette. Sanjana stated that she used to raise objection to the relationship of Shyam had with her mother and Shyam used to beat her for that purpose. She also deposed that she found blood stain on the wall of the room where his father used to sleep as well as on the pillow and bed. She also deposed that the house consisted of nine rooms. PW-7 was a tenant. Bisheswar was a van puller carrying tea leaves. She denied the suggestion that Sadananda, Umesh or Chandra Kishore were involved in the murder of Bisheswar.

8. PW-3, Umesh corroborated what was stated by PW-1 and 2. PW-4 Chandra Kishore also corroborated PW-2 and 3, so was PW-5 Khoka Yadav. PW-6 was the brother in-law of Bisheswar and the brother of Gandhi Devi. He also corroborated what PW-1 and 2 had said with regard to fixing of marriage and sale of land. According to him, on December 10, at about 10.00 a.m. Shyam came to him and enquired him about Bisheswar, thereafter Shyam told him that he received a telephone call from Bihar that there had been a demand of money on account of "Tilak" and the land had been sold for that purpose and Bisheswar left for Bihar. Later on Gandhi Devi told him that Bisheswar took Rs.1.75 lacs along with him before leaving. On enquiry, after three/four days, from Gandhi Devi, PW-6 came to know that there had been no information about Bisheswar. Gandhi Devi paid him a sum of Rs.50,000.00 and told him to keep it safely which might be required for marriage purpose. At that time Shyam was not in the house. The next morning

Gandhi Devi and Shyam left for Bihar. He then narrated the incident after arrival of Sadananda. The money was seized by the police from his residence. He came to know that Bisheswar was murdered and buried. PW-7, Pradip Roy, the only tenant in the house could not give any clue as to the murder. He only deposed that he was witness to the recovery of body. The other witnesses were seizure witnesses, the Investigating Officer and the masons who cemented the floor. There had been initial confusion with regard to the civil contractor. PW-13 Bikash Roy deposed that he, along with Bapi and Lalbahadur Tahpa, was sent by Dhanbahadur Subya for undertaking a masonry work at the house of Bisheswar. According to Bikash, they were engaged for cementing work in a kaccha room. They wanted to dig up the floor. The inmates of the house however told them that they should dig up only upto two feet and then they themselves asked them not to level the floor and wanted to do it of their own. Thereafter, they cemented the floor by applying cement mortar prepared by them. The lady in the house lighted "Dhupkathi" in the corner of the room. After completion of the work they left the place. The confusion arose with regard to the name of the labour contractor being Dhanbahadur Subya who was actually Dhanbir Deowan being PW-19. He deposed that his actual name is Dhanbir Deon. According to him, one lady and one man went to him and asked him to make the floor cemented. Initially he refused and then agreed. He demanded Rs.25,000.00. He was, however, paid Rs.1,100.00 for five days work. He deposed that Lalbahadur Thapa, Bapi and another person, possibly Bikash Roy (PW-13) whose name he could not recollect. PW-20, the Investigating Officer gave details of the investigation.

9. On a combined reading of the deposition and on a careful analysis it appears that the following facts were proved through witnesses who corroborated each other :-

- i) Bisheswar and Gandhi Devi were residing in Siliguri at Baikuntha Palli, in their own house having nine rooms including one kuccha room having bamboo structure. Shyam was also residing in the same house.
- ii) Bisheswar was a rickshaw puller, mainly involved in transportation of tea leaves. He had another land which he sold off at Rs.2.51 lacs to make arrangement for his daughter's marriage Sanjana being PW-3.
- iii) Bisheswar allegedly left with Rs.1.75 lacs on December 8, 2005 for Madhepura where he did not reach. He was thereafter not seen by any one either at Siliguri or at Madhepura.
- iv) Gandhi Devi enquired of Bisheswar from Sadananda, PW-1, on December 9 whether he had reached Bihar. Similar telephone call was made to Sanjana in the morning as well as in the evening. However, during evening telephone call Gandhi Devi was weeping when Sanjana told her to visit her.
- v) Gandhi Devi never lodged any missing diary with the local police station. Written complaint was made only on December 26, 2005 by Sadananda at Bhaktinagar Police Station after being informed by "vanwallas" that Bisheswar might have been killed and buried in his own room.
- vi) The floor was cemented by PW-13 and two other masons being engaged by PW-19 at the instance of the appellants. A lady in the house lit up an Agarbatti in the room, possibly offering respect to the departed soul.
- vii) Police with the help of the local people dug up the floor of a kuchha room in the presence of a Magistrate and unearthed the dead body on December 26, 2005.

10. From the aforesaid analysis, it appears that although there was no eye-witness to the incident the sequence of events would suggest that it was only Gandhi Devi and Shyam and no one else responsible for the murder of Bisheswar and burial of the dead body which was subsequently unearthed in the presence of the learned Magistrate being PW-15.

11. Mr. Saswata Gopal Mukherjee, learned counsel appearing for the appellants contended that the only tenant Pradip Roy being PW-7 categorically deposed that he did not see anything pertaining to the murder of Bisheswar. According to Mr. Mukherjee, Pradip Roy, one of the inmates of the house could not throw any light on the unfortunate murder of Bisheswar. In absence of such proof it would be too risky to affirm the conviction of the appellants. Mr. Mukherjee further contended that from the evidence it could only be proved that the dead body was unearthed by digging up the floor. Even if it is held by this Court that the job of cementing work was done at the instance of the appellants as proved through masons deposed before the Court the accused could at best be convicted under Section 201 of the Indian Penal Code for hiding the dead body. According to Mr. Mukherjee, there was no direct or indirect evidence which could complete the chain of circumstance to come to a definite conclusion that the accused were guilty of the offence under Section 302 read with Section 34 of the Indian Penal code. Mr. Mukherjee further contended that the PW-1, 2, 4 and 5 were relations and their evidence should be weighed with great caution. With regard to the deposition of PW-13 and 19 Mr. Mukherjee pointed out the anomalies with regard to the name of the labour contractor. He lastly contended that unless there was a complete chain of events which would unimpeachably make the prosecution story probable and nothing else it would be unsafe to uphold the conviction.

12. On the sentence Mr. Mukherjee contended that it could not be the rearest of the rear cases where the Court should impose the capital punishment, that too, based on circumstantial evidence.

13. Mr. Mukherjee relied upon two decisions of the Apex Court reported in *All India Reporter, 2005, Supreme Court, Page-1000 (State of Uttar Pradesh –VS- Satish)* & also *2005 (I) Calcutta Criminal Law Reporter (Supreme Court), Page-366* and *2007, Volume-I, Supreme Court Cases (Criminal), Page-688 (State of Rajasthan –VS- Kashi Ram)*

14. Opposing the appeal and appearing for the State in the death reference case, Mr. Y. Dastoor, learned counsel contended that Gandhi Devi, despite knowing the factum of missing of Bisheswar, did not inform the local police station. Her visit to Madhepura and her prolonged stay with Shyam obviously raised sufficient cloud that was not removed by the defence. According to Mr. Dastoor, when Gandhi Devi enquired of Bisheswar over telephone from Sadananda as well as Sanjana, she could enquire also from the local police station and should have lodged a missing diary to this said effect. No explanation was offered by either of the appellants on that score. Mr. Dastoor further contended that when the dead body was unearthed from the premises where Bisheswar, Gandhi Devi as well as Shyam were residing, the appellants owed an explanation in that respect and the court below was competent to draw an adverse inference in absence of any explanation.

15. Mr. Dastoor further remarked about the ostensive livelihood of Bisheswar and commented that being a rickshaw puller he had properties at Siliguri worth lakhs of rupees. He possibly hinted that the cause of death might be otherwise. However, no such definite assertion was made by him, possibly he did not want to do so while appearing for the State.

16. Upon analysis of the evidence and hearing the rival contentions if we narrow down the core issue we would find incriminating evidence as against Gandhi Devi and Shyam. It is true that there is no direct evidence either to the murder or to the burial of the dead body although the masons deposed to the extent of cementing of the floor. When there was no eyewitness to an incident the last seen theory, in our view, would be applicable. It was the case of the prosecution and not denied by the accused that Bisheswar had sold the land for Rs.2.51 lacs and allegedly left Siliguri with Rs.1.75 lacs for Bihar. He did not reach Bihar. His dead body was unearthed after about sixteen days from his own house. Cementing was done by the masons who identified the accused having engaged them for the purpose of cementing of the floor. PW-13 also deposed to the effect that both the accused supervised the work of cementing. Gandhi Devi lit up an Agarbatti on the cemented floor, possibly to show respect to the departed soul. This incriminating evidence coupled with a complete silence on the part of the accused offering no explanation as to the cementing of floor from which the dead body was unearthed, would obviously raise a pointer to the accused and the accused only. Even if we accept that there was no direct evidence to the incident of murder, even if we accept the argument that the doctor was not called to support the postmortem report, the very fact that the body was unearthed from the residence of the victim as well as the accused would certainly raise a pointer and such pointer was to be rebutted by the accused. No attempt was made to that extent.

17. In the case of State of Rajasthan –VS- Kashiram (Supra), the medical evidence showed that the death was due to strangulation. It was established on record that the deceased was last seen alive in the company of the accused. The prosecution successfully established the fact that the house was found locked on the next morning and continued to remain locked till it was opened. Through out

this period, the appellants were not to be seen until they were arrested. The appellants did not give any explanation in defence. The Apex Court held that the provision of Section 106 of Evidence Act would apply. According to the Apex Court, if a person is last seen with the deceased he must offer an explanation as to how and when he parted company with the deceased. He must furnish an explanation which appears to the Court to be probable and satisfactory. If he does so he must be held to have discharged his burden cast upon him by Section 106 of the Evidence Act. According to the Apex Court since the respondent failed to do so it must be held that he failed to discharge the burden cast upon him by Section 106 of the Evidence Act. ***“This circumstance, therefore, provided the missing link in the chain of circumstances which proved his guilt beyond reasonable doubt.”***

18. In the case of State of Uttar Pradesh –VS- Satish (Supra), the victim was subjected to rape and thereafter she was killed. Dead body was found lying in a sugar cane field on the next day when she was found missing on the way to her school. Two witnesses saw the deceased being carried on a bicycle by the accused. Accused was interrogated. In absence of a plausible explanation from the accused the Apex Court set aside the order of acquittal passed by the High Court and restored the conviction and sentence imposed by the Trial Court.

19. Relying on the said two decisions, we are of the view that although there was no direct evidence, the circumstances as discussed above coupled with a total non-explanation on the part of the accused as to how the death could be caused and how the dead body could be buried in the house where they were staying the adverse inference must be drawn as against the accused and the

Court below was right in convicting the appellants for the offences punishable under Section 302/201/34 of Indian Penal Code.

20. Mr. Mukherjee also relied upon the decision in the case of *Bakshish Singh –VS- The State of Punjab reported in All India Reporter, 1971, Supreme Court, Page-2016. Paragraph 8* of the said decision would rather support the case of prosecution. The Apex Court in the said case observed, *“the only incriminating evidence against the appellant is his pointing the place where the dead body of the deceased has been thrown. This, in our opinion, is not a conclusive circumstance, though undoubtedly it raises a strong suspicion against the appellant. Even if he was not a party to the murder, the appellant could have come to know the place where the dead body of the deceased had been thrown.”*

21. In paragraph 9 of the said decision the Apex Court discussed the scope of judicial examination of circumstantial evidence. According to the Apex Court, *“in a case resting on circumstantial evidence, the circumstances put forward must be satisfactorily proved and those circumstances should be consistent only with the hypothesis of the guilt of the accused. Against those 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.”*

22. Mr. Mukherjee criticized the prosecution having not produced the doctor who conducted the post mortem. According to him, in absence of the doctor, the post mortem report could not have been tendered in evidence. We have checked up the records. We find that the original post mortem report was tendered in evidence and the endorsement made by the learned Trial Judge in the list

shows that the appellants admitted the same without objection. Genuineness of the Post Mortem Report (Exhibit-14) was not disputed and as such, same was fit to be read in evidence in trial in view of the clear language of Section 294 of the Criminal Procedure Code. Hence, the benefit of the decision of the Apex Court in the case of *Vijender –VS- State of Delhi (1997, Volume-VI, Supreme Court Cases, Page-171)* would not help Mr. Mukherjee on that score.

23. In the instant case, Bisheswar, Gandhi Devi and Shyam were staying together in the house. Initially, Shyam came as a tenant and thereafter he stopped paying rent and became a member of the family as would appear from the evidence of the witnesses including Sanjana, the daughter of the victim and the appellant no.2. When the dead body was recovered from the house of the victim as well as the appellants, the appellants, in our view, must owe an explanation. Complete silence on their part would obviously lead to an adverse inference to be drawn under Section 106. Mr. Mukherjee contended, it was the sole duty of the prosecution to prove the charges through unimpeachable evidence. Yes, that is the procedure to be followed in a criminal trial. However, when the circumstances demand an explanation from the accused to unfold the narrative that is within their special knowledge total silence on their part must go as against them. Otherwise it would be travesty of justice if we release the accused in criminal trials in absence of ocular evidence.

24. On a sum total of the evidence we find that it was not possible for a single person to commit the murder and thereafter bury the dead body by digging up the floor. We find from the evidence that the appellants were close to each other. Even if it is not proved that such relationship was illicit from the evidence of Pradip Roy, an independent witness, the relationship was established. Pradip

says, it was “good”. We find that neither of them made any attempt to enquire from the police station regarding whereabouts of the victim. They also did not lodge any complain with the police at any point of time. We also find from the evidence that when the police came with the mason to dig up the floor both the appellants resisted and cautioned the police that in case they were unsuccessful they would be proceeded with in accordance with law.

25. There is one more salient feature. When a child loses one of his/her parents as a natural course he/she would not let the other to be lost and consequentially he/she would try his/her best to save the other. In our case, Sanjana lost her father. Even then Sanjana did not make any attempt to save her mother. According to her, her mother was good, but spoiled by Shyam. This piece of evidence is certainly incriminating and leads to conviction of both.

26. On the sentence, however, we wish to join issue. We do not find any special feature for which we could come to a conclusion that it falls under rarest of the rare category to have a capital punishment. In the circumstances, the death reference is answered in the terms that the sentence of death for the offence punishable under Section 302 read with Section 34 of Indian Penal Code as imposed by the learned Court below is commuted to the term of rigorous imprisonment for life as also to pay fine of Rs.5000/- each, in default to suffer further rigorous imprisonment for one year each which in the present case will meet the ends of justice.

27. The appeal preferred by the appellants is dismissed with the aforesaid modification in sentence to the extent the sentence of death is commuted to rigorous imprisonment for life as also to pay fine of Rs.5000/- each in default to suffer further rigorous imprisonment for one year each. The

conviction of the appellants under Section 201 read with Section 34 of Indian Penal Code remains undisturbed but no separate sentence is awarded in view of the imposition of sentence as modified by us for the major offence punishable under Section 302 read with Section 34 of Indian Penal Code.

28. Let a modified jail warrant be issued accordingly.

29. The accused are suffering their sentence. They are in Correctional Home. A copy of this judgment be sent to each of the accused in the Correctional Home/Homes where they are suffering their sentences.

30. A copy of the judgment and order along with Lower Court Records be sent down at once.

31. Urgent xerox certified copy will be given to the parties, if applied for.

Kishore Kumar Prasad, J:

32. I agree.

[ASHIM KUMAR BANERJEE,J.]

[KISHORE KUMAR PRASAD,J.]