

Judgment delivered on: 30.07.2019

Advocates who appeared in this case are:

Mr. Abhijit Bhattacharjee, Special P.P., for the Prosecution

Mr. J.I. Barbhuyan, Mr. Vidya Nanda Jha and Mr. L. Mohan Advocates for the accused

J U D G M E N T

1. This case will remind one of the famous saying of the mythological Greek King Agamemnon to King Odysseus, when the latter created the Trojan Horse, that is, "Well Odysseus, you have found a way to make the sheep invite the wolves for the dinner", and what happened to Troy after the Trojan Horse was taken inside the walled City, is history.

2. But, contrary to the same, in the instant case, the hapless sheep went to the den of three wolves and as you guessed correctly, the sheep is history.

3. The hapless sheep, in the instant case, is an exceptionally meritorious, young student namely, Sweta Agarwal, who stood first in the Higher Secondary Examination (Commerce Stream), conducted by the Assam Higher Secondary Education Council, in the year 2015. The deceased Sweta Agarwal was felicitated for her achievement by the Chief Minister and Governor of Assam, as per the documents enclosed with the charge-sheet and evidence of the prosecution discussed below, which is not disputed by the defence. The three wolves are the accused Gobind Singhal (her friend, boyfriend or lover, by whatever term one may refer him), his mother Smt. Kamala Devi Singhal and sister Smt. Bhabani Singhal.

4. The case of the prosecution, as unfolded during trial is that, on 04.12.2017, at around 08:30 A.M., the deceased Sweta Agarwal went from her

home to her college namely, K.C. Das Commerce College, for appearing in an examination. She was supposed to return home by 01:30 P.M. But, she did not return home till 02:00 P.M. and at around 03:30 pm, her mobile phone was found switched off. At around 05:30 to 06:00 P.M., her uncle Jagadish Agarwal (brother of the father of the deceased Sweta Agarwal and the informant of the case) received a phone call from a an unknown lady from the mobile number 9401829797, who told him that his niece Sweta Agarwal was lying dead in naked condition in their house with burn injuries. The unknown lady also gave him her address. Jagadish Agarwal then went to the said lady's house and the lady took him to their bathroom where, he saw the dead body of Sweta Agarwal lying with burn injuries. At that time, the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal were present in their house. Jagadish Agarwal suspected that the accused Gobind Singhal had committed rape on the deceased Sweta Agarwal and thereafter, hatching a conspiracy with the accused Kamala Devi Singhal and Bhabani Singhal committed her murder. Therefore, Jagadish Agarwal lodged a First Information Report (in short "FIR") with the Bharalumukh Police Station.

5. Based on the FIR, the Officer In-charge of the Bharalumukh Police Station registered the Case No. 805/2017, under sections 376, 302 and 120-B of the Indian Penal Code, 1860 (in short "IPC") against accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal and entrusted Sub-inspector of police Sudip Choudhury to investigate the case. Accordingly, Sub-inspector of police Sudip Choudhury investigated the case.

6. During the course of investigation, the investigating officer learnt that a call from an unknown number regarding death of Sweta Agarwal was received by her mother and she told the informant Jagadish Agarwal about the phone call. During the course of investigation, the investigating officer went to the house of the accused persons and taken photographs, as well as video of the deceased Sweta Agarwal, whose dead body was lying in the toilet in half-burnt and half-naked condition. The investigating officer also found the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal present in their

house. A bottle of one litre capacity, containing about 100 ml of kerosene oil, one match box, one plastic bucket and the half-burnt cloths of the deceased Sweta Agarwal were also found in the place of occurrence. In the floor and walls of the toilet, blood stains were present. After examining the contents of the bottle, the Directorate of Forensic Sciences, Assam, Guwahati has opined that the content of the bottle was kerosene oil and inflammable in nature. These circumstances indicated that the deceased Sweta Agarwal was brutally murdered by the accused persons. The accused also burnt the body of the deceased Sweta Agarwal pouring kerosene oil to conceal the act of murder and portray the murder as suicide.

7. It is the case of the prosecution that, on the day of the occurrence, the accused Gobind Singhal conspired with his mother Kamala Devi Singhal and sister Bhabani Singhal and made a call to the deceased Sweta Agarwal asking her to wait for him after her examination was over. Thereafter, the accused Gobind Singhal went to the K.C. Das Commerce College and took the deceased Sweta Agarwal in his motorcycle to their rented house, situated at J.P. Agarwala Road, Bharalumukh, after her examination was over. Thereafter, the accused persons executed the crime as per their plan. The accused Gobind Singhal carried the sack containing the body of the deceased Sweta Agarwal, tying it at the back of his motorcycle, for dumping at a safe place. In his statement recorded under Section 164 Cr.P.C., prosecution witness Pankaj Kumar has stated that he saw that blood was dripping from the sack and asked the accused Gobind Singhal about the same. The accused Gobind Singhal told him that the same was red paint, not blood. The same proved that the deceased Sweta Agarwal was brutally stabbed to death inside the house of the accused persons. The Post-mortem report mentioned about presence of deep incised injuries in the body of the deceased Sweta Agarwal, which were homicidal in nature. After stabbing Sweta Agarwal to death, the accused Gobind Singhal put her body inside a sack and tied the body with rope at the back of his motorcycle to dump it somewhere. Thereafter, the accused Gobind Singhal went out and finding a dustbin at Fatasil area, located at an isolated place, he dumped the body of the deceased Sweta Agarwal and set the body on fire

while the deceased was still alive, to confirm her death.

8. It is the case of the prosecution that, the post-mortem examination was conducted on the body of the deceased Sweta Agarwal at the Gauhati Medical College and Hospital, Guwahati, Bhanagagarh (in short "the GMCH") by a team of three doctors. The post-mortem examination revealed that burn injuries were present all over the body and the same were ante-mortem and post-mortem in nature. As such, the post-mortem examination proved that the deceased Sweta Agarwal was set on fire while she was still alive. As per the statement of the accused Gobind Singhal, he carried the sack containing the body of the deceased Sweta Agarwal to R.G.B. College, Fatasil and dumped it near a GMC dust bin. He has further stated that he went back to the said GMC dust bin and brought back the body of Sweta Agarwal to their house, which was already half-burnt, as per the instruction and advice of his mother Kamala Devi Singhal and sister Bhabani Singhal and unpacked the sack inside the toilet and again set the body of Sweta Agarwal on fire. The accused Kamala Devi Singhal and Bhabani Singhal were directly involved in the pre-planned and cold blooded murder of Sweta Agarwal.

9. It is the case of the prosecution that the articles seized during the course of investigation, such as, hand gloves purchased by the accused Bhabani Singhal for the accused Gobind Singhal, rat poison, four glasses containing tea, jute sack, plastic ropes, etc., from the house of the accused persons show that after meticulous planning, they had committed the murder of Sweta Agarwal.

10. It is the case of the prosecution that the incriminating evidence of planning for committing the murder of Sweta Agarwal is evident from the seizure of the writings of the accused Gobind Singhal in two pieces of tissue papers of the Café Coffee Day, which reads as follows:-

"For the final time soch lo.....baad me ye naihoki Tm Bano....", " if you don't want me.....say it now", " if you don't want me to get close to you, clear it now. I don't want you to get any other thought after getting close coz

otherwise you will regret later.....Dats it..." (TRANSCRIPT TRANSLATED IN ENGLISH : THINK ABOUT IT FOR THE LAST TIME, SO THAT LATER ON YOU DON'T HAVE TO BE.....).

11. It is the case of the prosecution that the same were written by the accused Gobind Singhal during the *Durga Puja* of 2017, i.e, in the third week of September, 2017. This reveals that the accused Gobind Singhal murdered Sweta Agarwal with a sound mind, after meticulous planning, as the deceased Sweta Agarwal refused to comply with his demand. The words "*Final time Soch lo...*", shows that the accused had planned a drastic step if she did not cooperate with him in bed. The words "*you will regret later...*" shows full preparation of the accused for committing the cold-blooded, pre-meditated murder, which the accused Gobind Singhal turned into reality on 4th December, 2017, hatching a conspiracy with his mother Kamala Devi Singhal and sister Bhabani Singhal. On 04.12.2017, the accused Gobind Singhal took Sweta Agarwal to his house in his motorcycle after her examination was over. Thereafter, the accused persons committed the murder of Sweta Agarwal in a pre-planned manner. Comparing the specimen handwritings of the accused Gobind Singhal with the writings in the tissue papers, the handwriting expert of the Directorate of Forensic Science, Guwahati, has opined that the person who has written the specimen handwritings has also written the writings in the tissue papers.

12. It is the case of the prosecution that the mother Kamala Devi Singhal and sister Bhabani Singhal of the accused Gobind Singhal directed the accused Gobind Singhal bring back the dead body of Sweta Agarwal to their house as they feared that the accused Gobind Singhal might face trouble and get caught for committing the murder of Sweta Agarwal. The mother Kamala Devi Singhal and sister Bhabani Singhal of the accused Gobind Singhal rebuked the accused Gobind Singhal for acting like a fool for throwing the sack with the body of the deceased Sweta Agarwal near the dustbin at Fatasil in a callous manner. The accused Gobind Singhal then brought back the sack containing the body of Sweta Agarwal to their house and unloaded the dead body in the toilet. At that

time, all the three accused persons were present in their home. Further, the accused Gobind Singhal was asked by the accused Kamala Devi Singhal and Bhabani Singhal to burn the dead body so that the murder looks like suicide. The accused Gobind Singhal has stated that his partners in crime were his mother Kamala Devi Singhal and sister Bhabani Singhal. He has further stated that his sister Bhabani Singhal handed over a kerosene bottle to his mother Kamala Devi Singhal and his mother poured kerosene oil over the body of Sweta Agarwal. Thereafter, a match box was handed over to him by his mother Kamala Devi Singhal and he lit the match stick and threw it on the body. He has further stated that, they poured water over the body of Sweta Agarwal as they perceived a burnt pungent smell of human flesh and blood and feared that the smell might alarm their neighbours. The accused Gobind Singhal threw the sack, in which Sweta's body was carried, in the Bharalu River to destroy the evidence of murder.

13. It is the case of the prosecution that the accused Kamala Devi Singhal and Bhabani Singhal tried to misguide the police by giving false statements at the initial stage of investigation and tried to destroy evidence by sprinkling water and cleaning the blood stains from the floor of their house. All the three accused persons set the body of Sweta Agarwal on fire and doctored the scene of crime by decorating and painting it as a case of suicide. The accused Kamala Devi Singhal informed the mother of the deceased Sweta Agarwal over phone that Sweta had committed suicide and the accused Bhabani Singhal called the Ambulance and informed the Police about the death of Sweta Agarwal. These *alibis* were kept ready by the accused persons so that in the event of revelation of the crime, they can project these *alibis* and get themselves absolved from the charge of commission of murder of Sweta Agarwal.

14. It is the case of the prosecution that the recovery of the belongings of the deceased Sweta Agarwal from the house of the accused persons shows that they tried to project the cold-blooded murder as a case of suicide. The opinion of the Directorate of Forensic Science Laboratory regarding the blood and its group found in the walls/floor/clothes was human blood having RH factor and

group "B" positive, which matches with the Laboratory tests report of the deceased Sweta Agarwal conducted at the Marwari Maternity Hospital, Athgaon, Guwahati on 05.11.2000.

15. It is the case of the prosecution that the medical officers who had conducted the Post-Mortem examination found several deep incised wounds in the body of the deceased Sweta Agarwal. Those cut injuries inflicted upon the deceased Sweta Agarwal, followed by the attempt to dispose of the dead body, cannot be carried out by one person within such a short span of time and has to be conducted by a group of persons, which substantiates the presence of the accused Kamala Devi Singhal and Bhabani Singhal at the place of occurrence at time of commission of the murder of the deceased Sweta Agarwal. The post-mortem report states about the death of the deceased Sweta Agarwal due to hemorrhage and shock following incised injury sustained over the neck, which was caused by sharp cutting weapon and was homicidal in nature. The Post-Mortem report also states that the injury Nos. 5, 6 and 7 were caused by sharp cutting weapon during life time and were homicidal in nature. Several other injuries were also found during post-mortem examination, which were caused by blunt force impact.

16. It is the case of the prosecution that after stabbing and hacking the deceased Sweta Agarwal to death, the accused Gobind Singhal took the dead body to the garbage bin and tried to burn her while she was still alive. But, as per the advice of the co-accused Kamala Devi Singhal and Bhabani Singhal, he brought back the body to their house and set the dead body on fire pouring kerosene oil. These acts of the accused persons are corroborated by the post mortem report which clearly mentioned about presence of deep incised wounds in the dead body inflicted while the deceased was alive and were homicidal in nature. The ante-mortem and post-mortem burn injuries prove that the deceased victim Sweta Agarwal was set on fire while she was alive and also after her death.

17. After completion of investigation, the investigating officer submitted charge-sheet for offences under sections 120-B/302/201 IPC against the

accused Gobind Singhal, Bhabani Singhal and Kamala Devi Singhal in the court of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati. The learned Chief Judicial Magistrate, Kamrup (M) Guwahati transferred the case to the court of the learned Judicial Magistrate, First Class, Kamrup (M), Guwahati Smt. M. Devi, for disposal. As the offences under Sections 120-B/302/201 IPC are exclusively triable by the court of Sessions, after complying with the provisions of Section 207 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Cr.P.C."), the learned Magistrate committed the case to this Court for trial. Hence, this case.

18. During trial, charges under sections 120-B/302/201 IPC were framed against the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal. When the contents of the charges were read over and explained to the accused persons, they pleaded not guilty and claimed to be tried.

19. The prosecution, in order to prove its case, examined twenty witnesses. The accused examined three witnesses.

20. In their examination under section 313 Cr.P.C., the accused have denied the prosecution case and have stated that the allegations levelled against them are false and baseless. In reply to the question as to how Sweta Agarwal sustained the fatal cut wound on her neck and burn injuries on her body in their house and succumbed to the injuries, the accused Gobind Singhal has stated that he does not know how Sweta Agarwal sustained the cut wound on the neck and burn injuries on the body. He has stated that when she was found in their house, she was alive. He has further stated that he had informed the Bharalumukh Police dialing No.100 and told them that Sweta Agarwal had sustained the cut wound and burn injuries and that she should be shifted to the hospital. At that time, his mother Smt. Kamla Devi Singhal and sister Smt. Bhavani Singhal were also present in their house. Had Sweta Agarwal been provided with necessary treatment, she would have been alive today. But, the accused Smt. Kamla Devi Singhal and Smt. Bhavani Singhal have taken different pleas and have stated that the deceased Sweta Agarwal was a

psychopath and she had committed suicide in their house.

21. The points for determination in this case are:-

I. Whether on 04.12.2017, in between 09:45 am and 05:30 pm, in the House No.119, at J.P. Agarwala Road, under Bharalamukh Police Station, the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal entered into a criminal conspiracy to do an illegal act, that is to commit the murder of the deceased Sweta Agarwal by intentionally causing her death and thereby, committed an offence punishable under Section 120-B of the Indian Panel Code?

II. Whether on 04.12.2017, in between 09:45 am and 05:30 pm, in the House No. 119, at J.P. Agarwala Road, under Bharalamukh Police Station, the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal entered into a conspiracy to do an illegal act, that is, to commit murder of the deceased Sweta Agarwal and pursuant to the said conspiracy, they intentionally caused the death of Sweta Agarwal and thereby, committed an offence punishable under Section 302 of the Indian Panel Code?

III. Whether on 04.12.2017, in between 09:45 am and 05:30 pm, in the House No. 119, at J.P. Agarwala Road, under Bharalamukh Police Station, the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal entered into a conspiracy to do an illegal act, that is, to commit murder of the deceased Sweta Agarwal and pursuant to the said conspiracy, intentionally caused her death by sharp cutting weapon and thereafter, set the body of the deceased Sweta Agarwal on fire while she was still alive, to conceal the evidence of murder and thereby, committed an offence punishable under Section 201 of the Indian Panel Code?

If so, what punishment do they deserve?

DECISION AND REASONS THEREOF

22. I have carefully examined the evidence on record, gone through the relevant documents on record and after hearing the arguments advanced by the learned counsel for both the sides, give my decision on the above points as follows:-

POINT NO. I

23. PW-1 Jagdish Agarwal, the informant, has deposed that the deceased Sweta Agarwal was his niece (daughter of his elder brother). On 04.12.2017, at around 08:30 am, Sweta went from her house to her college (the K.C. Das Commerce College) for appearing in an examination. Sweta used to return home at around 1:00/1:30pm. Her examination ends at around 12:30 pm. On that day, as till at 2:00 pm, Sweta did not return home, his sister-in-law Sunita Agarwal (the mother of the deceased Sweta Agarwal, the PW-7) called him over phone and informed him about the same. He then went to their house and talked with his sister-in-law. His sister-in-law tried to contact Sweta over phone but, though the mobile phone of Sweta was ringing, she did not pick up the phone. Then his sister-in-law became nervous and he consoled her and told her that after the examination, perhaps Sweta was with her friends and her mobile was inside her bag. At that time, he did not take the matter seriously. Sweta was also doing CA internship with Mr. O.P. Chandak. She used to go to the chamber of Mr. O.P. Chandak regularly. He, therefore, thought that Sweta might have gone to the chamber of Mr. O.P. Chandak and contacted the Chamber over phone. But, they told him that Sweta had not gone to the Chamber. At around 3:00/3:30 P.M., he again tried to contact Sweta on her phone but, her phone was found switched off. Thereafter, they started searching for Sweta on probable locations. He went in search of Sweta in the nearby areas of the K.C. Das Commerce College at Chatribari, near Goshala. But, he did not find her. At around 5:00/5:30 P.M., he received a phone call from a lady. He was on the road at that time. The lady asked him whether he is a relative of Sweta Agarwal and when he replied in the affirmative, the lady told him that Sweta had died due to burning in her house. He then asked the lady why Sweta had gone to her house and where her house was situated. The

lady gave the address of her house as House No. 119 at J.P. Agarwala Path, near Bharalu Sluice Gate. Hearing the news, he became puzzled and could not think anything coherently and without informing the members of the family of Sweta, rushed to the address given by the lady. On the way, he received a call from his niece Payal Bedia, who informed him that similar phone call was received by the mother of Sweta also. He then informed his elder brother Om Prakash Agarwal (the father of the deceased Sweta Agarwal, the PW-2) about the information they had received from the unknown lady and asked him to proceed to the house No. 119. As soon as he turned towards the J.P. Agarwala Path, he saw a crowd in front of a house. He asked the people what had happened there and then a lady came out and took him inside the house. As soon as he entered into the room, a lady showed him the dead body of Sweta Agarwal lying in the toilet. At that time, one boy, one lady and one girl were present inside the house. He enquired from the lady how Sweta went to that house and to whom the said house belonged? In the meantime, his elder brother Om Prakash Agarwal also arrived there. When he went near the body of Sweta, he saw that by the side of her neck, there was a cut injury and blood was oozing out. He also saw injury marks on the forehead and near the eyes. There was no cloth in the lower portion of the dead body. The lady, the girl and the man are present in the court and he can identify them. He again asked the lady that Sweta went out from home for appearing in examination and how she had gone to their house and who had killed her? The lady told him that they had killed Sweta and told him that they had already called an ambulance and directed him to remove the dead body. She also indicated towards the boy and in a threatening tone, told him that the father of the boy was outside and he did not know him. As they were questioning one after another, one person came from outside and asked them why they were shouting and creating noise. In the meantime, an ambulance arrived there and the police petrol party also arrived there. The Police told him to lodge FIR at the Police Station. He then lodged an FIR with the Bharalumukh Police Station. Ext. 1 is the FIR and Ext. 1(1) is his signature therein. Ext. 2 is the printed form of the FIR and Ext. 2(1) is his signature therein. The dead body was taken to the Bharalumukh Police

Station by the ambulance and he accompanied the dead body. The police told him that the dead body would be sent to the GMCH for Post-Mortem examination and the Post-Mortem examination would be conducted in the next day morning and he was instructed to go to the GMCH in the next morning, at around 9:00/10:00 am. Sweta stood first in the HSLC examination. She was a brilliant student and never considered any other thing, except studying.

24. In the cross-examination, he has stated that on 04.12.2017, for the first time he saw the accused Gobind Singhal. His mobile No. was 8723004280. He did not ask the lady how she could come to know about his mobile number as he was not in a position to ask these things at that time. After receiving the phone call, he went to the address directly. The phone number of his elder brother Om Prakash Agarwal is 9954030130. He informed his elder brother Om Prakash Agarwal over phone in between 5:30pm/6:00pm. When Sweta went out for her college in the morning, she was wearing her checked kurta and white payjama, i.e., her college uniform. He did not notice what type of chappal she wore on that day. He saw about thirty/forty people outside the said house. He did not notice whether there was any person known to him. He reached there at around 5:30/6:00 pm. He was there for about half-an-hour or an hour. He sat on the side of the dead body. The Police personnel were also present there. When the lady told him that she had called ambulance and also directed him to remove the dead body by that ambulance, he saw the Police arriving there. The vehicle was not an ambulance but, was a dead body recovery van. Three/four police officers and police personnel were there. He did not see their faces properly as he was not in a position to see all such things and was thinking about his niece only. From the said house, they went to the Bharalumukh Police Station and he lodged the FIR. He does not remember the name of the person who had written the FIR. He was one of his neighbours. The FIR was written at the Police Station as per his dictation. The Police recorded his statement after 10-15 days of the occurrence. He has denied the suggestion that he did not told the police that a lady had informed him over phone. He has denied the suggestion that he told the investigating officer that only Sunita had informed him over phone. He was not directly informed by

Sunita Agarwal and as per her instruction, his niece Payal Bedia informed him over phone. He has denied the suggestion that he did not disclose the name of Payal Bedia in his statement recorded under Section 161 Cr.P.C. He has denied the suggestion that he did not disclose the name of Payal Bedia in the FIR. He has denied the suggestion that Payal Bedia informed him over phone that his niece Sweta Agarwal had committed suicide. He has denied the suggestion that he did not told the Police that his sister-in-law Sunita Agarwal was trying to contact Sweta over phone, but although her phone was ringing, she did not pick up the phone. When he went searching for Sweta, first he went to her college situated at Chatribari. He also searched on the road of the nearby areas. He did not go to police at that time as he had not suspected any foul play. When he reached near Himmatsingka Petrol Pump, he received the phone call from the lady. He has denied the suggestion that he did not receive any phone call from any unknown lady. He has denied the suggestion that he did not inform the Police that he searched for Sweta at Chatribari area, near her college. The lady (the witness identified the accused Kamala Devi Singhal in the dock as the said lady) came out and took him inside the house and told him that Sweta died due to burning. He has denied the suggestion that the lady told him that Sweta had committed suicide. He has denied the suggestion that the lady never went out to take him inside. He has denied the suggestion that he did not ask anything to the accused Kamala Devi Singhal. He has denied the suggestion that the accused Kamala Devi Singhal did not tell him that they had killed Sweta. He has denied the suggestion that he did not state those facts before the investigating officer. However, he might not have stated in his FIR that the said lady told him that they had killed Sweta. He has denied the suggestion that he did not state to the Police that when he saw the dead body of Sweta, she had cut wound on the side of her neck and blood was oozing out from the said wound. He has denied the suggestion that he did not state before the Police that Sweta had another injury on the forehead. However, he did not state the same in the FIR. He has denied the suggestion that he did not state to the Police that the lady also indicated towards the boy and in a threatening tone, told him that the father of the boy was outside and he did not know him.

He did not mention the same in the FIR. He does not know anything about any love affair between the deceased Sweta Agarwal and the accused Gobind Singhal. Sweta was doing C.A. internship since one year before her death. He does not know who else were doing internship with Sweta in the said firm. He never went there. As they were by the side of the dead body, they did not notice any other person. On the next day, when he went to the GMCH, the doctor asked him to put his signature. Before taking the dead body for Post-mortem examination, his signature was taken in a form as guardian of the deceased. He has denied the suggestion that Sweta Agarwal had committed suicide in the house of the accused persons. He has denied the suggestion that on seeing Sweta committing suicide in the house of the accused, the accused Kamala Devi Singhal had informed Sunita Agarwal (the PW-7) that Sweta had committed suicide.

25. As can be seen from the cross-examination of the PW-1, the defence admitted the death of Sweta Agarwal in the house of the accused persons as the defence suggested to the PW-1 that Sweta Agarwal had committed suicide in the house of the accused persons, which he has denied. The defence also admitted that the accused Kamala Devi Singhal informed the mother of the deceased Sweta Agarwal namely, Sunita Agarwal (PW-7) that Sweta had committed suicide in their house as the defence suggested to him that the accused Kamala Devi Singhal had informed Sunita Agarwal (the PW-7) that Sweta had committed suicide which, he has denied. The PW-1 has further deposed that when he reached the house of the accused persons, inside the house, one boy, one lady and one girl (meaning thereby, the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal, as he has identified them in the court) were present in the house. Defence did not challenge him in the cross-examination that when he reached the house of the accused persons, the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal were not present in their house. Therefore, the testimony of the PW-1 must be accepted to be true.

26. In the case of **Mukesh Vs. State (NCT of Delhi)**, reported in **(2017) 6 SCC 1**, the Hon'ble Supreme Court held that,

"205. The aforesaid submission can be singularly rejected without much discussion on the foundation that a question to that effect was not put to the doctors in their respective cross-examinations..."

Therefore, if the defence wants the court to reject the testimony of the PW-1, then it should have challenged the PW-1 in the cross-examination that he was not telling the truth or has deposed falsely. Therefore, the unchallenged testimony of the PW-1 must be accepted to be true.

27. In view of the above, the admitted position of the case is that on 04.12.2017, at around 5:30/6:00 pm, the deceased Sweta Agarwal died in the house of the accused persons and at that time, the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal and the deceased only were present in the house of the accused persons. The accused suggested to the PW-1 that they did not commit murder of Sweta Agarwal and Sweta Agarwal had committed suicide in their house, which he has denied. Defence also suggested to the PW-1 that the deceased Sweta Agarwal had love affair with the accused Gobind Singhal. The dead body of the deceased Sweta Agarwal was found lying in the toilet of the accused persons. Therefore, the only question that remains to be answered in this case is whether the deceased Sweta Agarwal committed suicide in the house of the accused persons, or the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal committed her murder by intentionally causing her death hatching a criminal conspiracy and removed the evidence of murder to portray the murder as a case of suicide?

28. PW-2 Om Prakash Agarwal, the father of the deceased Sweta Agarwal has deposed that on 04.12.2017, at around 8:30 am, Sweta went to her college for appearing in the of 5th Semester, B.Com., examination. Thereafter, at around 10:00 am, he went to his work at Bhabani Printing Press, Rajgarh Road. Usually, he comes back to his home for taking lunch at around 2:00/2:30 pm. On that day also, he came back to his home at around 2:00/2:30pm. After

reaching home, he came to know that till then Sweta did not come back. After taking lunch, he again went to his office. Before going to his office, he tried to contact Sweta over phone, but did not get any response from her. After reaching the office, he contacted the chamber of Mr. O.P. Chandak, Chartered Accountant, where Sweta was doing Articleship for Chartered Accountancy. But, he was told that Sweta has not gone to the chamber. When he tried to contact Sweta again at around 3:30 pm, he found her mobile phone switched off and finding the same unnatural, he immediately came back to his home and asked his wife why Sweta has not come back till then. His wife told him that she had also tried to contact Sweta over phone but found her mobile switched off. He became puzzled and was thinking about what to do. Then, at around 5:30/6:00pm, a phone call came from a lady in the mobile phone of his wife. The lady told his wife that Sweta had died due to burning and was lying near the Sluice Gate at J.P. Agarwala Road. In the meantime, his brother also called him over phone and told him that he had received a phone call from a lady that Sweta had died due to burning and asked him to rush to the House No. 119 at J.P. Agarwala Road, Bharalumukh. His wife started crying and he asked her not to cry and he rushed to the J.P. Agarwala Road by his scooter. After reaching Bharalumukh, he enquired from the local people about J.P. Agarwala Road and they showed him a crowd and told him to go there. An ambulance was also proceeding in that direction and the local people told him to follow the ambulance. Accordingly, he went to the house. As soon as he entered into the house, he saw his brother Jagdish Prasad Agarwal there. He asked his brother what was the matter. His brother indicated towards the toilet and told him to see for himself. He then saw that Sweta was lying dead in the toilet. She had no cloth on the lower portion. She had long cut injury in the neck, appeared to be caused by sharp object. He also saw mark of injury on the forehead. There was indication that her legs were tied and he could guess that she was first tied and thereafter, set on fire. There was blood stain on the entire floor of the toilet. There was also mark of dragging the dead body from one place to another. He became puzzled. His brother started to inquire from the two ladies and one young man present there. He can still recognize the lady, the girl and

the young man and they are present in the dock. They asked the lady who had killed Sweta? The lady told them that they had killed Sweta. She also told them to take away the dead body. She told him that she had already called an ambulance and in a threatening tone, told them that they do not know the father of the boy and told them that they would not be able to do anything to them. She also told him that the father of the boy was not in the home and as such, asked them to leave early. In the meantime, the police arrived. He then called his wife to come and see the dead body. His wife arrived and started crying and almost collapsed. Thereafter, they went to the Police Station. His brother accompanied the dead body and he went in his bike. At the Police Station, they lodged the FIR.

29. Material Ext. 4 is the ladies hand bag of Sweta Agarwal. Inside the bag, an Admit card of his daughter Sweta is there. Material Ext. 4(1) is the said Admit card. Material Ext. 4 (2) is the writing board of his daughter Sweta Agarwal. Material Ext. 4(3) is the calculator of his daughter Sweta Agarwal. Material Ext. 4(4) is the water bottle of his daughter Sweta Agarwal. Material Ext. 4(5) is the plastic scale of his daughter Sweta Agarwal. Material Ext. 4(6) is the handkerchief of his daughter Sweta Agarwal. Material Ext. 4(7) is the key ring with keys of his daughter Sweta Agarwal. Material Ext. 4(8) is the wrist watch of his daughter Sweta Agarwal. Material Ext. 7 is the pair of ladies shoes of his daughter Sweta Agarwal, which she used to wear often. Material Ext. 24 is the *churni* of his daughter Sweta Agarwal. She went out on that day wearing the said *churni*. Material Ext. 25 is the long exercise book of his daughter Sweta Agarwal with her handwriting. Before the dead body of his daughter Sweta Agarwal was taken away from the house of the accused persons, his wife asked him where the clothes of Sweta Agarwal below the waist were. He had shown her the kerosene bottle and the match box and told her that the accused had burnt the same. Material Ext. 22 is the said kerosene bottle and Material Ext. 23 is the matchbox which was lying in the toilet by the side of the dead body. His daughter was a brilliant student and she stood first in the H.S. Commerce examination. She was doing well in CA. She has received awards from the Chief Minister and the Governor of Assam.

30. In the cross-examination, he has stated that on 04.12.2017, his daughter went to her college at around 8:30 am. It takes about 15/20 minutes to reach her college by rickshaw. Her examination was going on. The examination time was in between 9:00/9:30 am and 12:00/12:30 pm. She used to return home by 1:00/1:30 pm. On that day, he came back to the house at around 2:00/2:30 pm for taking lunch and then he enquired about Sweta from his wife. His wife told him that she should have come back by that time. Then he tried to contact Sweta on her phone No. 9954030131. The phone was ringing but, she did not pick up the phone. He did not call O.P. Chandak, the CA with whom his daughter was working as an intern. He went for his job thinking that she had gone to the firm. He reached his place of work at around 3:00/3:15 pm. After reaching his office, he tried to contact O.P. Chandak in his firm. One lady picked up the phone. He cannot say her name. She told him that Sweta did not go there on that day. Hearing the same, he became tensed. He again tried to contact Sweta over phone at around 3:30 pm but, her phone was found switched off. He then returned to his home. After coming back to the home, he saw that his wife was also tensed. They were puzzled where to go and whom to approach. His younger brother was present in his house and he went out in search of Sweta. His younger brother went towards the college of Sweta and he remained in the home. In between 5:30/6:00 pm, his wife received a phone call from an unknown lady. He was sitting by her side. The lady told his wife that the dead body of his daughter was lying near the sluice gate at J.P. Agarwala path. In the meantime, he received a phone call from his younger brother. He asked his wife to stop the phone and his younger brother asked him to go to the J.P. Agarwala Path, Bharalumukh as some incident had taken place there. He received the phone call of his brother in his mobile No. 9954030130, at around 6:00 P.M. Immediately, he proceeded to the J.P. Agarwala path in his bike. One person of Manipuri Basti, who was known to him, accompanied him but, he does not know his name. He dropped the said person at Paltan Bazar. At around 6:15 pm, he reached J.P. Agarwala path. When he reached there, he did not see any police, but there was a crowd. After entering into the house, he saw his younger brother by the side of the

door. The three accused persons were also present inside the house. His brother took him to the toilet. There, he saw the dead body of his daughter. On seeing the dead body, he enquired from the three accused persons what happened to his daughter. He did not check her breath or pulse. He called his wife there. The ambulance was outside the house and the lady told him that she had already called the ambulance and instructed him to remove the dead body by that ambulance. He saw burn injuries on the leg and it appeared to him that first her legs were tied and thereafter, she was set on fire. He also saw injury marks on her forehead, just above the eye. In her leg also, he saw burn and other injuries. He saw cut injury marks on her right thigh. He did not notice whether there were other injury marks or not. He did not see any rope by the side of the deceased. It appeared to him that hurts were caused to the deceased at some other place and thereafter, the body was dragged to the toilet. The cut injury, which he noticed, was a deep injury. He did not see the time exactly when his wife arrived there. When the dead body was removed by the stretcher, his wife arrived there. He does not know who called the police. His younger brother lodged the FIR and he told him what he had written. After four/five days of the incident, the police recorded his statement. He has stated before the investigating officer whatever he had learnt. But, as he was busy with the "*shraddha*" (last rites) of the deceased, he cannot remember what he said. The Police recorded his statement at his house. His daughter used to take tuition at Pan Bazaar and at two/three other places. He does not know whether the accused Gobind Singhal was also taking tuition in those places. He never saw Gobind Singhal before. On his query, the lady told them that they had killed his daughter. He has denied the suggestion that Kamala Devi told him that his daughter had committed suicide and she had also told him to take her to hospital for treatment. He has denied the suggestion that the accused Gobind Singhal had contact with all the members of his family over phone. He has denied the suggestion that the accused Gobind Singhal had visiting terms to their house. After the incident, he came to know that the accused Gobind Singhal was also doing Articleship in the firm of O.P. Chandak. He had no knowledge whether his deceased daughter had visiting terms with the accused

Gobind Singhal. His daughter was always busy with her studies and he did not have any idea that she had any kind of love affair with any person. He has denied the suggestion that his daughter informed them that she had love affair with the accused Gobind Singhal and she would like to marry him. Before the said incident, he did not know the family of the accused. He has denied the suggestion that it was a case of suicide and knowing well about the same, he has given the same colour of murder. He has denied the suggestion that his only intention is to falsely implicate the accused Gobind Singhal with the case. He has denied the suggestion that he has deposed falsely.

31. From the cross-examination of the PW-2 also, it can be seen that the defence has admitted the death of Sweta Agarwal in the house of the accused persons as the defence has suggested to the PW-2 that Sweta Agarwal had committed suicide and knowing well about the same, the PW-2 has given the same colour of murder as the defence suggested to him that the accused Kamala Devi Singhal told him that his daughter had committed suicide, which he has denied. The PW-2 has also proved that the deceased Sweta Agarwal was a brilliant student and she stood first in the Higher Secondary (Commerce) Examination and she received awards from the Chief Minister and the Governor of Assam. Defence did not challenge him in the cross-examination that the deceased Sweta Agarwal was not a brilliant student and she did not stand first in the Higher Secondary (Commerce) Examination and she did not receive awards from the Chief Minister and the Governor of Assam. Therefore, the admitted position of the case is that on 04.12.2017, at around 5:30/6:00 pm, the deceased Sweta Agarwal died in the house of the accused persons and at the time of her death, the accused persons and deceased only were present in the house of the accused persons. Defence suggested to the PW-2 that the accused did not commit murder of the deceased Sweta Agarwal and the deceased Sweta Agarwal committed suicide in their house, which he has denied. The accused persons also suggested to the PW-2 that the deceased Sweta Agarwal had love affair with the accused Gobind Singhal, which he has denied.

32. PW-7 Sunita Agarwal, the mother of the deceased Sweta Agarwal has deposed that on 04.12.2017, Sweta Agarwal went to appear in the 1st day's examination of the 5th Semester, B. Com., at the K.C. Das Commerce College. Sweta went out from the house at around 8:30 am. Sweta used to return home at around 1:00/1:30 pm. On that day, Sweta did not return home at that time. She then tried to contact Sweta over phone. Sweta's phone was ringing but, she did not pick up the phone. Thereafter, she tried to contact her husband, but, as he was also not responding, she contacted her brother-in-law Jagadish Agarwal (the informant). She told him that Sweta has not returned home at the usual time. Hearing the same, Jagadish came to their flat at around 2:00/2:30pm. Her husband also enquired about Sweta and she told him that she had not returned home till that time. Her husband then tried to contact Sweta over phone. Sweta's phone was ringing but, she did not pick up the phone. Then her husband consoled her and told her not to worry as Sweta might have gone to the Chamber of Mr. O.P. Chandak, C.A., after examination. After taking lunch, her husband went back to his Office telling her not to take tension. As she was feeling tensed, she requested her brother-in-law to stay in their house till her return. She was continuously trying to contact Sweta over phone and her phone was ringing but, she did not answer. After sometime, her husband came back to the house and told that Sweta's mobile was found switched off. She then tried to contact Sweta, but she also found her mobile switched off. She asked her husband as to why he had come back. He told her that he had contacted the Chamber of Mr. O.P. Chandak but, he was informed that Sweta had not gone there. After sometime, the friends of Sweta also started enquiring about Sweta and she told them that Sweta has not returned. As they were tensed, her brother-in-law told them that he would go to enquire nearby the K.C. Das Commerce College. She and her husband stayed back in the house and were praying for her. In the mean time, a phone call came from a lady. The lady informed her that her daughter was lying dead completely burnt in the House No. 119, near the Sluice Gate at J.P. Agarwala Road. She told her husband about the same. Her brother-in-law Jagadish Agarwal also called her husband and gave the same information and asked him to proceed

to J.P. Agarwala Road. Her husband told her to remain in the house and also told her that he was going to see what had happened. After sometime, her husband called her over phone and told her to proceed to the J.P. Agarwala Road, House No. 119, in whatever condition she was. She then went to the J.P. Agarwala Road by an Auto-rickshaw. When she reached there, she saw that the dead body of her daughter Sweta was taken out from the house. She saw that the lower garments of her daughter were missing. There were injuries in the neck and forehead of the dead body and a bloodstained cloth. In the legs also, there were injury marks. On both the legs, there were burn injuries. There were also some scratches. In her face and side of the body also, there were burn injuries. She came to know from her husband that the dead body of her daughter was lying in the toilet above the commode. Her husband told her that the three accused persons namely, Kamala Devi Singhal, Bhavani Singhal and Gobind Singhal had killed Sweta. Her husband told her to go back to the house and that he would go to the Police Station. The accused persons told her husband that they would not be able to do anything to them. Thereafter, she returned to her home by an Auto rickshaw. Her husband and her brother-in-law went to the Police Station. The blood group of sweta was "B" positive.

33. In the cross-examination, she has stated that Sweta used to come back by 1:30 pm but, sometimes, she used to come late. The mobile No. of Sweta was 9954030131. She received phone call from the unknown lady. At that time, her brother-in-law was near the K.C. Das College and her husband was in their flat. Later on, her husband asked her to go J.P. Agarwala Road, House No. 119. She went there alone by an Auto rickshaw. She saw that the dead body of Sweta was taken out from the house. Her brother-in-law did not tell her what he found during his enquiry in or around the K.C. Das College. She has denied the suggestion that whatever she has stated before the court is false. She has denied the suggestion that she has stated before the court a cooked up story. She does not know Gobind Singhal before. Her daughter was working in the chamber of Mr. O.P. Chandak. She cannot say when her PAN card was prepared. Her husband knows the same. She does not know whether the application for her PAN card was filled up by the accused Gobind Singhal.

In June/July 2017, her daughter went to Shillong for Audit work. She was dropped at the house by the vehicle of Mr. O.P. Chandak. She does not know whether the accused Gobind Singhal came to drop her. Her niece Payal Bedia never complained to her that the deceased used to chat over phone whole night with someone. She has denied the suggestion that hearing complaint from Payal Bedia, she had snatched away the mobile handset of her daughter. Her daughter used to take private tuition at Panbazar. She has denied the suggestion that two days before her death, her daughter received injury due to falling at the tuition center at Pan Bazar. She has denied the suggestion that Sweta Agarwal was in depression due to the tense situation in their house. Sweta did not tell her that she had filled up the form in the chamber of O.P. Chandak along with the accused Gobind Singhal. She has denied the suggestion that she called Gobind Singhal in between 2:30 pm and 3:00 pm on 04.12.2017. She has denied the suggestion that she knew from before that her daughter was in love with the accused Gobind Singhal and she also saw the mark G.S. (seems to mean a tattoo as "G.S." for Gobind Singhal) in the hand of Sweta. She has denied the suggestion that Sweta told her that it was S.S. (?) She has denied the suggestion that on the day of occurrence, when she went to J.P. Agarwala road by an auto rickshaw, she was accompanied by two other persons. She has denied the suggestion that she knew that the accused Gobind Singhal was not ready to marry her daughter and for that reason, her daughter committed suicide. She has denied the suggestion that knowing everything; she has deposed a false story of murder. She has denied the suggestion that she knew the accused Gobind Singhal from before and she has suppressed the same from the court. She has denied the suggestion that regarding the relation of Sweta Agarwal and Gobind Singhal, the situation was tense in their house and they had several discussions over the same.

34. From the cross-examination of the PW-7 also, it can be seen that the accused persons admitted the death of Sweta Agarwal in their house as the defence has suggested to the PW-7 that Sweta Agarwal had committed suicide and knowing well about the same, she has deposed about a false story of murder which, she has denied. Further, by cross-examining the PW-7, the

defence has tried to prove the reason behind commission of suicide by the deceased Sweta Agarwal. The reason as suggested to the PW-7 by the defence is that the deceased Sweta Agarwal had love affair with the accused Gobind Singhal and wanted to marry him but, as the accused Gobind Singhal was not ready to marry her, she committed suicide. But, this was not suggested to the PW-1 and PW-2, as can be seen from the discussion of their testimonies made above. Therefore, the same is afterthought and the defence manufactured the same as the motive behind commission of alleged suicide by the deceased Sweta Agarwal which, the accused have miserably failed to prove, as will show the discussion made below.

35. As can be seen from the discussion made above, the case of the prosecution is based on the circumstantial evidence of recovery of the dead body of the deceased Sweta Agarwal from the house of the accused persons and admittedly, the accused persons informed the informant, the mother of the deceased Sweta Agarwal and the police that Sweta Agarwal was lying dead in their house and that she had committed suicide by setting her ablaze. Therefore, let us now discuss the medical evidence to find out whether the deceased Sweta Agarwal committed suicide in the house of the accused persons, or the accused persons committed her murder by intentionally causing her death?

36. As can be seen from the discussion made above, the murder of Sweta Agarwal was so brutal that it shooked the collective conscience of the community and responding to the cry of the society, the police requested the GMCH to constitute a team of doctors to conduct the post-mortem examination to rule out possibility of any mistake or error and as per the request of the police, the GMCH constituted a team of three doctors of the Department of Forensic Medicine to conduct the post-mortem examination and accordingly, they conducted the post-mortem examination. The testimonies of the doctors are discussed below.

37. PW-9 Dr. Raktim Pratim Tamuli, Demonstrator, Department of Forensic Medicine, GMCH has deposed that on 05.12.2017, at 2:20 pm, he conducted

Post-mortem examination on the body of the deceased Sweta Agarwal. The dead body was escorted by ASI Madan Baishya and Constable No. 283 Manidip Sonowal and one Jogesh Agarwal, a relative of the deceased. They identified the dead body. Along with the dead body, he received the dead body *challan* (sending of the dead body for Post-mortem examination), forwarding letter and the inquest report. Ext. 8 is the dead body *challan*. Ext. 8(1) is his signature therein with office seal. Ext. 9 is the inquest report. Ext. 9(1) is his signature therein. He conducted the Post-mortem examination jointly with Dr. Mrinal Haloi, Demonstrator and Dr. Himangshu Das, Associate Professor, Department of Forensic Medicine, GMCH and found as follows:-

A female dead body of average built and swarthy complexion with a partially burnt school uniform Kurta (the upper garment, as the deceased was found half-naked) and a red colour bra and covered with a bed sheet. Eyes were closed and mouth was partially open. Tongue was protruded out and bitten. A ligature (cloth) was found tied around the neck. Smell of Kerosene was present over the body and wearing garments. Body was cold externally and warm internally. Rigor Mortis was fully developed all over the body. Post Mortem Hypostasis was present over the back and fixed.

1. Burn injury of dermo epidermal depth was present at places over the body. Burnt areas were separated from normal healthy tissues by a line of redness at places and at places it was absent. (Mixed ante-mortem and post-mortem injuries). Burn injuries were present over following parts-
 - (a) Right side of the face.
 - (b) Front of neck.
 - (c) Front of chest and abdomen.
 - (d) Perinium
 - (e) Back of abdomen.
 - (f) Front of right arm.
 - (g) Back of right forearm.
 - (h) Front of both thighs and both legs.

2. A Ligature mark of size 28 cm X 2cm was present just below the level of thyroid cartilage which was continuous and horizontal. On dissection, neck tissues underneath the ligature mark were pale.
3. A fresh laceration of size 2.3cm X 0.4cm x bone deep was present at the lateral end of left eye brow which lies 7cm left of midline. Margins were found contused.
4. Red coloured contusion of size 10cm X 4cm was present around left eye and also at lateral end of left eye over left cheek; multiple scratch abrasions were present over the contusion.
5. Incised wound of size 4cm X 0.5cm X skin deep was present over right side of front of neck which lies 10cm below the level of right ear and 5.5cm right of midline.
6. Incised wound of size 2.3cm X 0.8cm X skin and subcutaneous tissue deep was present at the medial end of Injury No. 5, which lies 9cm below the level of right ear and 3cm right of midline. Direction of the wound was right to left, above to downward and front to back.
7. Incised wound of size 7.5cm X 4.5cm X vertebrae deep was present over right side of front of neck which lies 1.2cm below the level of injury No. 6 and 3cm above suprasternal notch. Underneath, neck muscles, jugular vessels, part of the thyroid cartilage were cut. C5 vertebral body was also partially cut.
8. Red coloured abraded contusion of size 4cm X 2cm was present over front of left thigh which lies 13cm above the level of left knee.
9. Graze abrasion of size 3cm X 2cm was present over front of right knee (fresh).
10. Scalp on dissection, showed that contusion over left parital eminence.

NB-

1. Two numbers of vaginal smears were prepared on glass slides, examination of which did not show presence of any spermatozoa and gonococci.
2. Uterus was put in 10% formal saline and sent to the department of pathology, GMCH to rule out pregnancy.

3. Blood, viscera and relevant paper documents were sealed, packed, labeled and handed over to the escorting police for chemical analysis at Directorate of Forensic Science, Kahilipara.
4. Videography of the post-mortem examination was done as per request of the IO by Mr. Biki Basak, memory card of which was handed over to the escorting police in a sealed envelope.

Opinion

The death was due to hemorrhage and shock following incised injury sustained over the neck which was caused by sharp cutting weapon and was homicidal in nature. Injury Nos. 2, 4, 8 and 9 as mentioned hereinabove, scalp contusion described were caused by blunt force impact. Injury Nos. 5, 6 and 7 as aforesaid were caused by sharp cutting weapon during life and were homicidal in nature.

1. There was no evidence of recent sexual intercourse detected on her person at the time of examination.
2. No evidence of violence of sexual offense.
3. Total area of body surface burnt approximately 40%-50% and both ante-mortem and post-mortem.
4. No evidence of pregnancy detected at the time of autopsy examination, however, uterus was preserved and sent for histopathological examination.
5. Injuries as described in the text and time since death was 12-24 hrs approximately.
6. Kerosene like smell was present over the wearing garment and body.

The injuries, especially the incised injury No. 7 and the ligature mark described over the neck and the burn injuries described above can also cause death even if proper treatment is provided.

Ext. 10 is the post-mortem report prepared by him and Ext. 10(1) is his signature with seal therein. Ext. 10(2) is the signature of Dr. H. Das and Ext. 10(3) is the signature and seal of Dr. Mrinal Haloi, which he can identify.

38. In the cross-examination, he has stated that a person may also die

with 40% to 50% of burn injuries. A cloth was found surrounding the neck and ligature mark was found under the cloth. The injury in the neck was caused by sharp weapon. He did not specify the type of the sharp weapon used. There was no blood clot inside the brain or at the back of the head. The injury was found at the left parietal eminence. There was contusion. Even though, there is a cut mark at neck, contusion may be present anywhere including parietal region. He did not find any evidence of sexual violence. He cannot comment whether the assailant was a right hander or a left hander, but it was not at all a suicidal death. He put his signature in the inquest report, at the time of returning the same to the Police; he did not mention that he put his signature at the time of returning the document. He compared the injuries found by him and noted by him in the Post-mortem report with the injuries mentioned in the inquest report. In the inquest report, there was mention about the burn injuries only. He intimated the investigating officer about the mismatch between the inquest report and the Post-mortem report. The ligature mark was not mentioned in the inquest report. Cut marks were also not mentioned. He cannot recall now where the dead body was kept after it was brought to the GMCH. The injuries mentioned in the Post-mortem report are all ante-mortem injuries. According to him, the Post-mortem report prepared by them is correct. The injury caused in the neck of the deceased could not be caused by any heavy weapon. In the inquest report under his signature, the time is not mentioned. He cannot say whether the kerosene was poured by the person herself or by someone else. He is an MD in Forensic Medicine and at the time of Post-mortem examination, he had the requisite professional qualification to conduct Post-mortem examination. He received the dead body at 2:00 pm and the Post-mortem examination started at 2:20 pm. The Police forwarded the dead body at 10:00 am from the Bharalumukh police Station. He cannot say where the dead body was kept before 2:00 pm. The Post-mortem report was prepared by him in his own handwriting. They, the three doctors, jointly prepared the Post-mortem report but, it was prepared in his handwriting. Had there been any difference of opinion between them, the other doctors would not have signed the document. They discussed with each other at the time of

preparing the Post-mortem report. In front of the dead body, they three jointly prepared the report and it was written in his handwriting. He cannot say now how much time it took for completing the Post-mortem examination. He has denied the suggestion that the Post-mortem report was manufactured by them reflecting injury marks, contradictory to the inquest report. He has stated that it is not at all necessary to mention what instruments they used for performing the autopsy. The injury marks reflected in the Post-mortem report was not suicidal. He has denied the suggestion that he had prepared the Post-mortem report as per the instruction of the informant.

39. PW-10 Dr. Himangshu Das has deposed that on 05.12.2017, he was working as an Associate Professor in the Department of Forensic Medicine, GMCH. On that day, Dr. Raktim Pratim Tamuli, demonstrator, Department of Forensic Medicine, GMCH, conducted post-mortem examination on the body of Sweta Agarwal. The post-mortem examination was performed based on the requisition received in connection with the Bharalumukh police Station case No. 805/17. Dr. Mrinal Haloi and he assisted Dr. Raktim Pratim Tamuli in conducting the post-mortem examination. Ext. 8 is the dead body *challan* and Ext. 8(2) is his signature therein with seal. Ext. 9 is the inquest report and Ext. 9(2) is his signature therein with seal. Dr. Raktim Pratim Tamuli prepared the post-mortem report. Ext. 10 is the post-mortem report and Ext. 10(2) is his signature with seal therein. The findings regarding the injuries over the dead body of Sweta Agarwal as stated in the post-mortem report are correct and he concurred with the report. In his opinion, the death was due to hemorrhage and shock following incised injury sustained over the neck which was caused by sharp cutting weapon and was homicidal in nature. Injury Nos. 1, 2, 3 and 4, as per the post-mortem report, and scalp contusions were caused by blunt force impact and injury Nos. 5, 6 and 7, as per the post-mortem report, were caused by sharp cutting weapon, during life and homicidal in nature.

1. There was no evidence of recent sexual intercourse detected on her person at the time of examination.
2. No evidence of violance of sexual offense.

3. Total area of body surface burnt was approximately 40% to 50% and both of ante mortem and post mortem burn.
4. No evidence of pregnancy was detected at the time of autopsy, however, they preserved the uterus and sent for histopathological examination.
5. Time since death was 12-24 hrs. from the time of examination.
6. Kerosene-like smell was present over the wearing garments and body.

40. In the cross-examination, he has stated that he put his signature in the inquest report only after receiving the same. He did not mention the time of receiving the inquest report. He has gone through the inquest report. In the inquest report, all the injuries were not mentioned and in the post-mortem report, they have mentioned all the injuries. Ext. 10 post-mortem report is in the handwriting of Dr. Raktim Tamuli. During post-mortem examination, they noted down all the findings. The said papers are not enclosed with the post-mortem report. The team of doctors was constituted to perform the post-mortem examination as per the requisition of the Police. In all cases, the Police do not request for constituting team of doctors to conduct post-mortem examination but, in some of the cases, they do. The findings were noted at the time of post-mortem examination and thereafter, the final post-mortem report was prepared in a separate room. There was no difference of opinion among them. They did the post-mortem examination as per the procedure laid down in the Medical Jurisprudence by Modi. The book is recognized as standard textbook in forensic medicine throughout India. In the report, they did not write the same. The post-mortem report format is different in every State. The injury sustained on the neck was caused by sharp cutting weapon but, it cannot be a heavy weapon. It might even be a blade. There was no external bleeding from the injury sustained on the scalp. The viscera were sent to the FSL through the Police. He does not know whether videograph was submitted in the court or not. The ligature mark which was found on the neck of the dead body was not suicidal in nature. He has denied the suggestion that the post-mortem report was prepared by them through pre-discussion and pre-decision. They received

the dead body at 2:00 pm and he does know where the dead body was kept before. They took 20 minutes for documentation. Prior to post-mortem examination, the presence of Police and guardian are necessary for identification. They took signature of the guardian who had identified the dead body. He has denied the suggestion that they manufactured the post-mortem report after conspiring with the informant. He is an Associate Professor in the Forensic Medicine Department at GMCH and is an MD in Forensic Medicine. He thinks, he has the requisite qualification. He cannot comment on the inquest report, but the post-mortem report was prepared on the basis of their findings.

41. PW-11 Dr. Mrinal Haloi has deposed that on 05.12.2017, he was working as a Demonstrator in the Department of Forensic Medicine, GMCH. On that day, Dr. Raktim Pratim Tamuli, demonstrator, Department of Forensic Medicine, GMCH, conducted post-mortem examination on the body of Sweta Agarwal. The post-mortem examination was conducted based on the requisition received in connection with Bharalumukh police Station Case No. 805/17. Dr. Himangshu Das and he were also in the team of doctors who assisted Dr. Raktim Pratim Tamuli in conducting the post-mortem examination. Ext. 8 is the dead body *challan* and Ext. 8 (3) is his signature with seal therein. Ext. 9 is the inquest report and Ext. 9(3) is his signature with seal therein. Dr. Raktim Pratim Tamuli prepared the post-mortem report. Ext. 10 is the post-mortem report. Ext. 10(3) is his signature therein with seal. The findings regarding the injuries over the dead body of Sweta Agarwal as stated in the post-mortem report are correct and he concurred with the report. In his opinion, death was due to hemorrhage and shock following incised injury sustained over the neck, which was caused by sharp cutting weapon and homicidal in nature. Injury Nos. 1, 2, 6 and 7, as per the post-mortem report and scalp contusions, were caused by blunt force impact and the injury Nos. 3, 4 and 5, as per the post-mortem report, were caused by sharp cutting weapon during life and homicidal in nature.

1. There was no evidence of recent sexual intercourse detected on her person at the time of examination.
2. No evidence of violance of sexual offense was found.

3. Total area of body surface burnt was approximately 40% to 50% and both of ante mortem and post mortem burn.
4. No evidence of pregnancy was detected at the time of autopsy; however, we preserved the uterus and sent for histopathological examination.
5. Time since death was 12-24 hours from the time of examination.
6. Kerosene-like smell was present over the wearing garments and body.

42. In the cross-examination, he has stated that the inquest report was received on 05.12.2017. He did not mention the time. They put signatures as they received the inquest report, not that they were present at the time of inquest. In this case, he found some mismatch in their findings and the inquest report and they informed the same to the Investigating Officer orally, through Constable. In his case, he always prepares the report immediately after completing the post-mortem examination and there remains no separate note. He cannot remember whether in this particular case, he took note of the findings at the time of autopsy. Prior to post-mortem examination, they did not discuss amongst themselves. At the time of post-mortem examination and also during preparation of the report, they discussed amongst themselves. In this particular case, they did not discuss with any higher authority. They three doctors did the autopsy and they discussed amongst themselves. In some of the cases, when he finds difficulty, he takes the advice of his seniors. The post-mortem report was written in the handwriting of Dr. Raktim Pratim Tamuli. He put his signature only. The dead body was received at 2:00 pm, on 05.12.2017. The dead body was dispatched at 10:00 am. The post-mortem examination started at 2:20 pm. During the period from 2:00 pm to 2:20 pm, the dead body was kept in the autopsy hall. He cannot say where the dead body was kept before 2:00 pm. They did the formality of taking the signatures of the Police and the relative of the deceased before conducting the post-mortem examination. Before conducting the post-mortem examination, the signature of the guardian and the Police were taken on the carbon copy of the dead body *challan* and he put his signature in all the documents, including the dead body *challan*, command certificate, forwarding report and inquest report. The carbon copies are retained in their office and the originals were returned to the police.

The signature of the relative of the deceased was taken only on the back side of the carbon copy of the dead body challan. Along with the post-mortem report, they sent the memory card of the video recording of the post-mortem examination. He was not shown the memory card in the court. He does not remember about the maker of the memory card. The three doctors were present at the time of post-mortem examination. Mortuary attendants were also there. The Police arranged the videographer and the videographer was also there. He has denied the suggestion that the post-mortem report was prepared by them intentionally with pre-discussion. He has denied the suggestion that the post-mortem examination was not conducted as per the procedure laid down by the law or medical jurisprudence. He has denied the suggestion that they conspired with each other and manufactured the post-mortem report intentionally, giving incorrect findings. He has denied the suggestion that the death of Sweta Agarwal was suicidal in nature. The injury found on the neck of the deceased was caused by a sharp cutting weapon. Blade, glass, etc., are also sharp cutting objects. In every text book, there is definition of sharp cutting object. He has denied the suggestion that they conspired to give the case colour of homicidal death.

43. As can be seen from the above discussion, the three Medical Officers who had conducted the post-mortem examination on the body of the deceased Sweta Agarwal, have proved beyond all reasonable doubt that the death of Sweta Agarwal was homicidal and she did not commit suicide.

44. The learned counsel for the accused tried to discredit the post-mortem examination on the ground that in a murder case normally, only one doctor performs the post-mortem examination. But, in the instant case, why three doctors performed the post-mortem examination? The argument is simply stated to be rejected. The murder of Sweta Agarwal evoked strong public reaction. The public opinion was growing for doing justice to the deceased Sweta Agarwal by inflicting exemplary punishment upon the perpetrators. The electronic and print media extensively covered the murder of the deceased Sweta Agarwal for several days and public opinion was growing and the people

of Assam were demanding justice to the deceased Sweta Agarwal by inflicting exemplary punishment upon the guilty as the brutal and inhuman murder of an exceptionally meritorious student like the deceased Sweta Agarwal and that too, without any rhyme or reason, is not a normal happening and the court in Assam can take judicial notice of the same. In view of the above, to make sure that no flaws are left in the post-mortem examination; a team of doctors was constituted for conducting the post-mortem examination at the request of the investigating agency. The defence should have appreciated the same and not criticized the same. It is anybody's guess that the same was done to make sure that no mistake or error is committed in conducting the post-mortem examination. Therefore, as three doctors of the Guwahati Medical College and Hospital, which is the premier medical college of the North-east, have performed the post mortem examination and as can be seen from the testimonies of the three doctors as discussed above, all of them have categorically stated that the death was caused by the incised wound found over the neck of the deceased Sweta Agarwal and the same was caused by sharp cutting weapon and was homicidal in nature. Therefore, there can be no doubt that the death of Sweta Agarwal was homicidal and not suicidal.

45. Let us now discuss the testimony of the investigating officer to see what he has found during investigation?

46. PW-20 Shri Sudip Choudhury, the investigating officer of the case, has deposed that at the relevant time he was posted at the Bharalumukh Police Station. On 04.12.2017, at around 06:00 pm, the Officer In-charge of the Bharalumukh Police Station received a telephone call to the effect that in the House No. 119, J.P. Agarwala Road, a girl had attempted to commit suicide by pouring kerosene oil on her body and setting herself on fire. Immediately, the Officer In-charge of the Bharalumukh Police Station instructed the In-charge of the PAPA 22 (Police patrolling party) namely, Mahesh Baishya, to go to the place of occurrence. At 06:10 pm, the Officer In-charge of the Bharalumukh Police Station told him about the same and directed him to rush to the place of occurrence along with staff. Accordingly, at around 06:15 pm, he proceeded to

the house No. 119 at J.P. Agarwala Road. He reached the house at around 6:25 pm and saw a large gathering inside and outside the house No. 119. He heard the people saying that one Gobind Singhal had killed Sweta Agarwal inside the house. He found Gobind Singhal and the members of his family inside the house. The members of the family of Sweta Agarwal were also present there. One ambulance was also standing outside the house. As he entered into the room, some people led him towards the toilet and there, he saw the dead body of a girl. He saw that the dead body was naked below the waist and was half-burnt below the waist. He also noticed a red colour cloth covering the dead body from neck to waist. He found blood stain in the toilet where the dead body was lying. He also found a plastic bottle with some kerosene oil. He also noticed one plastic bucket, without any water and one match box. The kerosene bottle was in open condition, but the cap/lead was lying by its side. He took photographs of the entire scene. He informed the dead body carrying van to come to the place of occurrence. He prepared a sketch map of the place of occurrence. Ext.26 is the sketch map prepared by him. He also enclosed photographs of the dead body taken by him with the sketch map. As there was a large crowd and there was possibility of law and order situation, he did not wait for the arrival of the government dead body carrying van and sent the dead body in the 108 ambulance, which was already there. As the people were about to lynch the accused Gobind Singhal, he did not wait any further and sent the accused Gobind Singhal with the In-charge of the PAPA 22 Mr. M Baishya. As the situation worsened, he talked with the Officer In-charge of Bharalumukh Police Station and reported him about the incident and as per his instruction, he took Kamala Devi Singhal and Bhabani Singhal in his custody and thereafter, took them to the Bharalumukh Police Station. Before leaving the place, he locked the house of the accused. The house was kept under lock and key as all the inmates were taken into custody. After reaching the Police Station, he came to know from the Officer In-charge that on his requisition, the personnel of the State Finger Print Bureau, CID, Assam were coming to the place of occurrence and the Officer In-charge instructed him to accompany them, as soon as, they arrive. After their arrival, he accompanied them to the

place of occurrence. He had shown the team the place where the dead body was found and thereafter, they did the investigation and tried to collect finger prints. After their investigation, he locked the house and returned to the Bharalumukh Police Station with the team members. As as per the instructions of the Officer In-charge, he did medical examination of Kamala Devi Singhal and Bhabani Singhal and shifted them to the Women's Shelter Home, Gold, at Noonmati for keeping them for the night there. The dead body was kept at the Police Station for the night in their safe custody in the government dead body carrying van. At around 09:45 pm, Jagadish Agarwal lodged an FIR. Ext.2 is the said FIR. The case was registered as Bharalumukh Police Station Case No. 805/17 and he was formally endorsed to investigate the case. Accordingly, he investigated the case.

47. During the course of investigation, he recorded the statement of the informant Jagadish Agarwal at the Police Station on that very day. He also recorded the statement of the accused Gobind Singhal in that very night. The Circle Officer Damodar Barman was requested to come to the Police Station for conducting inquest over the dead body and accordingly, he arrived at the Police Station at around 08:30 am on 05.12.2017. He did the inquest in his presence. Ext.9 is the inquest report. Ext.9 (5) is his signature therein with seal. At around 08:40 am, the accused Kamala Devi Singhal and Bhabani Singhal were brought to the Police Station from the Women Shelter, Gold, Noonmati. He recorded their statements and thereafter, arrested them. The accused persons are present in the dock. At around 10:00 A.M., he forwarded the dead body to GMCH for conducting post-mortem examination. The dead body forwarding was signed by the Officer In-charge of the Bharalumukh Police Station with his seal and signature. Ext.8 is the said dead body forwarding. Ext.8(4) is the signature of the Officer In-charge of Bharalumukh Police Station along with his official seal. He made a prayer before the DCP, Crime for collecting the CDR analysis of the telephone numbers of the deceased Sweta Agarwal and the three accused persons. On that day, he produced the accused persons before the learned Chief Judicial Magistrate, Kamrup (M), Guwahati with a prayer for allowing him to take them in his custody. They were given five days police remand. After

bringing them back to the Police Station, he interrogated them thoroughly. After recording their statements, the accused Gobind Singhal was kept at the Bharalumukh Police Station and the other two accused persons were sent to the All Women Police Station, Panbazar. On 07.12.2017 at around 9:10 am, he again proceeded to the place of occurrence with the accused Gobind Singhal to find out some clues regarding the offence. He reached there at around 9:20 am. On that day, at around 09:30 am, he seized one plastic bottle with a little bit of kerosene oil, one match box, two burn pieces of linen cloths with blood stain and one half burnt cloth with some blood stains. He also collected the blood sample in cotton gauge by wiping the blood from the floor, a few pieces of hair, which he suspected to be the hair of the deceased victim and one locket. The accused Gobind Singhal was present at that time and two other witnesses, namely Utpal Medhi and Ashok Kr. Deka were also present. Ext.19 is the seizure list and Ext.19 (2) is his signature therein. Material Ext.22 is the plastic bottle containing kerosene oil. Material Ext.24 is the burnt piece of linen cloth with blood stain. Material Ext.23 is the match box. He has stated that he recorded the statement of the witnesses Utpal Medhi and Ashok Kr Deka. Thereafter, putting the house of the accused under lock and key, he returned to the Police Station. At around 11:00 am, he received the post-mortem examination report. As per the post-mortem examination report, the death was due to hemorrhage and shock following incised injuries sustained over the neck which was caused by sharp cutting weapon and was homicidal in nature. The injuries were marked in the post-mortem report and he noted down the same in the case diary. As per the post-mortem report, both ante-mortem and post-mortem burn injuries were present in the dead body. On 08.12.2017, at around 10:15 am, he went to the house of the complainant for recording the statement of the inmates of the house of the deceased Sweta Agarwal. He returned to the Police Station at around 01:00 pm. Thereafter, at around 1:50 pm, accompanied by the accused Gobind Singhal, he again went to the House of the accused. On that day, at around, 2:00 pm, he seized one mobile phone (mi CE1317) of the accused Gobind Singhal, one Samsung mobile phone of the accused Bhabani Singhal, one HTC mobile phone of the accused Kamala Devi

Singhal, one new hand gloves of red and black colour, one green colour small knife with suspected blood stain, one black jeans containing blood stain in the lower portion, which was worn by the accused Gobind Singhal at the time of committing the crime, one grey colour ladies hand bag containing the Admit card, spectacles, identity card, water bottle and watch of the deceased Sweta Agarwal, two pieces of English writings on two napkins of the Café Coffee Day. Ext.3 is the said seizure list and Ext.3 (3) is his signature therein. Material Ext.17 is the seized mi CE1317 mobile phone, Material Ext.18 is the seized HTC mobile phone and Material Ext.19 is the seized Samsung mobile phone. Material Ext.3 is the hand gloves of the accused Gobind Singhal. Material Ext.2 is the black colour jeans of the accused Gobind Singhal. Material Ext.4 is the ladies handbag of the deceased Sweta Agarwal containing her Admit card [Material Ext.4(1)] and ladies watch [Material Ext.4(8)]. Material Ext.4(6) water bottle was also found inside the ladies hand bag. Material Ext.20 and 21 are the two pieces of English writings in two napkins of the Café Coffee Day. He recorded the statements of the seizure witnesses, namely, Dhananjay Roy, Hemanta Sarma and Gosto Biswas. In that afternoon, the accused Bhabani Singhal was brought from the All Women police Station, Panbazar and once again, he recorded the statements of accused Gobind Singhal and Bhabani Singhal. He recorded the statements of the accused persons several times and on every occasion, they gave different statements. On 09.12.2017, at around 9:40 am, he again proceeded to the place of occurrence along with the accused Gobind Singhal and reached there at around 09:50 am and seized one Hero Super Splendor motorcycle bearing registration No. AS-01-BT- 6977, one sharp knife with suspected blood stain, 4 pieces of nylon yellow colour rope having blood stain, one pair of ladies shoe of the deceased victim Sweta Agarwal as identified by the accused Gobind Singhal and one floor cleaning cloth with blood stain. Ext.4 is the said seizure list and Ext.4(4) is his signature therein. Material Ext.5 is the said sharp knife. Material Ext.6 is the envelope containing the pieces of nylon rope. Material Ext.7 is the pair of ladies shoes. Material Ext.8 is the floor cleaning cloth with blood stain. He recorded the statements of the seizure witnesses, namely, Dhananjay Roy, Hemanta Sarma and Pradip

Khandelwal. The knife, floor cleaning cloth and the pair of ladies shoes were seized from the drawing room. The motorcycle and the pieces of nylon ropes were seized from outside the house, approximately two meters away from the house. He repeatedly searched for the mobile handset of the deceased Sweta Agarwal, but did not find the mobile handset. The accused Gobind Singhal told him that he carried the dead body of Sweta Agarwal in a bag in his motorcycle and again brought back the dead body to their house and thereafter, he threw the bag in the Bharalumukh River. He searched for the bag several times, but did not find the bag. He could not find the uniform of the deceased Sweta Agarwal, although he searched for the same several times. On 10.12.2017, at about 10:40 am, he again went to the place of occurrence along with staff and independent witnesses Dhananjay Roy and Gosto Biswas. He called them to the police station and they reached the place of occurrence at 10:50 am and seized certain things by 11:00 am. He seized three pen drives (one HP, one Kingston and one Proxkey), one Lenovo laptop, hard disk, one data cord, driving license of the accused Gobind Singhal, one purse of the accused Gobind Singhal, cash amount of Rs. 1,02,500/-, one long exercise book of the accused Gobind Singhal, Non-Judicial Stamp papers of Radheshyam Singhal containing three pages and one packet rat killing medicine. Ext.5 is the said seizure list and Ext.5 (2) is his signature therein. Material Ext.10 is the seized Lenovo laptop. Material Ext.13 is the seized cash amount of Rs. 1,02,500/-. Material Ext.26 is the seized data cord. Material Ext.27 is seized the hard disk. Material Ext.14 is the seized long exercise book of the accused Gobind Singhal. Material Ext.9 is the seized pen drives. Material Ext.16 is the seized rat killing medicine. Material Ext.12 is the seized purse of the accused Gobind Singhal. Material Ext.15 is the seized Non-Judicial Stamp papers. He recorded the statements of the seizure witnesses. On 12.12.2017, he recorded the statement of one Pankaj Kumar. He also got his statement recorded by the Magistrate under Section 164 Cr.P.C. Ext.6 is the statement of Pankaj Kumar recorded under Section Cr.P.C. Said Pankaj Kumar is a resident of the house of P.C. Mazumdar, in whose house the accused persons were also residing. On 04.12.2017, Pankaj Kumar came from his salon to take his meal and after taking his meal, while he was going back to

his salon, he saw the accused Gobind Singhal tying one bag in his splendor motorcycle and he also noticed that the bag was partially red and red drops were coming out from the bag. On being asked by him, the accused Gobind Singhal told him that it was paint. On 15.12.2017, the seized mobile phones were sent to the DFS, Kahilipara, for examination. It was sent to extract the Whatsapp messages and deleted whatsapp messages, but nothing incriminating was found. During investigation, he collected the specimen handwritings and signature of the accused Gobind Singhal in presence of ACP, Jalukbari division, namely Shri Pranjit Dwrah. He had noted the contents of Material Ext.20 and 21 in the case diary. In Material Ext. 20 is in English letter, written in hindi language as follows:-

" i) rehna hai ya nahin? For the final time soch lo. Baad mei ye nahi hai ki tum bono.....ii) if you don't want me.....say it now. iii) if you don't want me to get close to you, clear it now. I don't want you to get any other thoughts after getting close cause otherwise you will regret later...that's it.

In Material Ext.21, is written as follows:-

"I will surrender myself to you on bed."

To know, as to who has written the Material Exts.20 and 21, he sent the Material Exts.20 and 21, and the long exercise book of the accused Gobind Singhal (Material Ext.14) and his specimen handwritings and signatures to the FSL, Kahilipara to ascertain whether the writings in the Material Exts.20 and 21 were of the accused Gobind Singhal or not. He received the report on 05.01.2018 and the report stated that all the handwritings were of the one and the same person, i.e, of the accused Gobind Singhal.

48. PW-20 has further deposed that at the time of interrogation of the accused Gobind Singhal, he confessed that he had carried the dead body near R.G. Baruah College, Fatashil for dumping. He also led them to the R.G. Baruah College to show the place. He was accompanied by ACP Jalukbari, one Pradip Khandelwal and other police staff. They did not get any material there to show that there was any burning or like that. The accused Gobind Singhal also told

them that later on, he took the body back to his house. The accused Gobind Singhal went on changing his statement from time to time. He recorded statement of the accused Gobind Singhal several times and each time, he has given different statement. All his statements are available in the case diary. Along with the accused Gobind Singhal, he also arrested the accused Kamala Devi Singhal and Bhavani Singhal. On 12.02.2018, he seized the birth certificate and a laboratory report of the deceased Sweta Agarwal. Ext. 26 is the seizure list and Ext. 26(1) is his signature. The seizure was made from Shri Om Prakash Agarwal, the father of deceased Sweta Agarwal. Ext. 27 is the said laboratory report. From the laboratory report, it appeared that the blood group of the deceased Sweta Agarwal was B positive. On 12.12.2017, he collected the blood sample from the motorcycle of the accused Gobind Singhal, in presence of Shri Shankar Chandra Rabha, Scientific Officer, Serology Division. On 15.12.2017, he forwarded the blood sample to the FSL, Kahilipara, through DCP, Crime. He has received the report from the Serology Division, FSL, through the DCP, Crime, on 06.02.2018. The blood sample which was taken from the motorcycle was found to be of group 'B'. Along with the said blood sample, he also forwarded 2ml. blood sample of the deceased Sweta Agarwal, which was collected and preserved. The blood was collected from the toilet of the house of the accused Gobind Singhal in cotton gauge, one yellow colour plastic rope containing stain of suspected blood, one torn and half-burnt cloth containing stain of suspected blood, one black coloured jeans pant containing stain of suspected blood, were also seized from the house of the accused Gobind Singhal. The examination report disclosed that the blood collected from the place of occurrence, the 2ml. blood collected from the body of Sweta Agarwal, the blood stain found in the yellow colour plastic rope and also the blood stain found in the black colour jeans pant, gave positive tests for human blood group 'B'. During investigation, the jeans pant was found to be of accused Gobind Singhal and he seized the same. He investigated the case from 4.12.2017 till filing of the charge sheet. During investigation, he found that it was not a sudden accidental death but, was a pre-planned murder. All the three accused persons namely, Gobind Singhal, Kamala Devi Singhal and Bhavani Singhal conspired with each other to

commit the murder of Sweta Agarwal. On the date of occurrence, the accused Gobind Singhal himself took Sweta Agarwal to his house from her college, i.e. K.C. Das Commerce College, in his motorcycle. She was taken by the accused Gobind Singhal at around 12:40/12:45pm. They reached the house of the accused at around 1:00pm. After reaching the house, the accused Gobind Singhal killed Sweta Agarwal and with the help of the accused Kamala Devi Singhal and Bhavani Singhal, put the dead body in a sack and thereafter, took the dead body in a motorcycle near R.G. Baruah college, Fatashil. Earlier, the plan was to dump the dead body there. But, subsequently, the mother of the accused Gobind Singhal told him over phone not to dump the body there otherwise it would be a clear case of murder. As per her instruction, the accused Gobind Singhal took back the dead body to their house and to conceal the murder, all the three accused poured kerosene oil on the dead body and set the dead body on fire, to give it colour of suicide,. Not only that, the accused Kamala Devi Singhal also informed the mother of Sweta Agarwal that her daughter had committed suicide in her house. But, the death cannot be a case of suicide as the dead body had at least thirteen injuries, as stated in the post-mortem report. When he first saw the dead body in the toilet, it was not in normal shape and the body was squeezed. There was also attempt to destroy the evidence after commission of the murder. The accused first tried to remove the dead body and thereafter, set the dead body on fire. Thereafter, the accused washed the toilet and poured water on the floor to wash the blood stain from the floor. The belongings of the deceased were found in the house of accused persons. After completion of the investigation, finding sufficient evidentiary materials against the accused Gobind Singhal, Kamala Devi Singhal and Bhavani Singhal, he submitted charge-sheet for commission of offences punishable under sections 120(B)/302/201 I.P.C. against them. Ext. 28 (18 pages) is the charge-sheet and Ext. 28 (1) is his signature therein.

49. In the cross-examination, he has stated that the face of photograph in the Ext. 26, i.e., the sketch map, is covered by hair and is not visible. He prepared the sketch map only of the toilet, not of outside. In his photograph, the tap or commode or shower is not visible. In the sketch map, he has neither

mentioned about the number of rooms nor about the exit, nor about the location of the house. He did not mention about the neighbourhood of the house, including the description. He made himself sure about the death of the victim before sending the dead body to the Police Station. There was no doctor at that time. He also did not take any opinion of any doctor. He did not mention in the seizure list the name of the manufacturer of the match box. The match box was not sent to the FSL for detection of fingerprint. He did not exhibit the requisition issued seeking mobile data of the seized mobile handsets. At the time of conducting the post-mortem examination, the doctors collected the blood sample of the deceased and he forwarded the sample to the FSL for examination. In the post-mortem report, there is mention about collection of blood sample, but it is not mentioned that 2 ml. blood was collected as sample. He did not take any writing from Mahesh Baishya regarding handing over the blood sample to him. He did not record statement of Mahesh Baishya. He went to the house of the accused Gobind Singhal on 7.12.2017, at 9:00 am, made the seizure at 9:30 am and thereafter, returned to the Police Station. He received the post-mortem report at 11:00 am. He recorded the statements of Utpal Medhi and Ashok Deka on 7.12.2017. At the time of mentioning the date, first he mentioned it as 6.12.2017 but, he corrected it in the case diary as 7.12.2017 by overwriting. In the Ext. 19, the time of seizure was mentioned as 3:00 pm. Ext. 19(A) is the relevant entry. Seized locket is not amongst the seized articles produced before the court today. The seized locket is also not exhibited in the court. In the Ext. 19 list of seized articles, he used whitener without initial. Ext. 19(B), Ext. 19(C) and Ext. 19(D) are the relevant markings. The seized articles were kept in the Malkhana of the police station. He came to know about non-availability of the seized locket in the court. Later on, he has stated that the locket is present in the box containing the seized articles before the court and he can identify the same. It has not yet been marked as a Material Exhibit. In the photographs submitted in the court, there is no photograph of the locket. He has denied the suggestion that it is not a locket, but it is a *tabij* (a *tabij* is an object worn in the neck, hand or waist, to do away with bad omen or for good luck). He did not mention

in the seizure list to whom the locket belonged.. In the Ext. 4 seizure list, he mentioned about the seizure of five articles, including one motorcycle (Hero Super Splendor) bearing registration No. AS-01-BT-6977. He did not mention about finding of blood stain in the motorcycle but, in the other three, he has mentioned about the presence of blood stain. In the ladies shoes also, he did not mention about the presence of blood stain. The seized articles, including the motorcycle, were taken to the police station on that day. The motorcycle was seized on 09.12.2017 and till 12.12.2017, it was lying in the custody of the Police. He did not give any written requisition to the FSL for examination of the motorcycle. In the Ext. 4, there is an NB. He did not put his signature or initial in the areas where whitener was used. Ext. 4(A) is the area where whitener was used. He did not enquire about the ownership of the motorcycle as the accused told him that the motorcycle belonged to him. In none of the seizure lists, he made the land lord of the accused witness. He has collected the blood stain from the motorcycle bearing registration No. AS-01-BT-6977 by cotton gauge. The said cotton gauge was not seized. On 20.12.2017, the Serology Division of the FSL received the parcel. He forwarded the knife, with suspected blood stain, seized on 09.12.2017, to the FSL for examination. Ext. 16 is the report of the FSL. The knife seized on 9.12.2017 was also sent to the fingerprint bureau, CID, Assam and their report has been received on 06.01.2018. Ext. B is the said report. It is in the case record. In the inquest report (the Ext. 9) the place of conducting the inquest is not mentioned as because there was no such column. The motorcycle was taken to the Police Station by their staff. He did not record the statement of those staffs. In Material Ext. 6 and Material Ext. 8, envelopes, his signature is not there. In none of the material exhibits, did he put his signature or obtained the signature of any Police officer. In the Ext. 24, the name of the accused Gobind Singhal is not mentioned and it is stated that all the handwritings were of the same person. The specimen handwritings of the accused Gobind Singhal was sent for comparison. Ext. 11 does not bear his signature. In Ext. 11, there is no mention of the person who has taken the signature of the accused Gobind Singhal. In the Ext. 12 also, his signature is not present. Who had collected the specimen signature &

handwriting is also not mentioned there. The date and time of taking the specimen signature is not there. The carbon copy of the Ext. 12 is in the case record. In the Material Ext. 20 and Material Ext 21, there is no signature of the person who has written the same. There is also no mention as to whom the same was addressed. There is also no date. Vide Ext. 3, two pieces of napkin of Café Coffee Day were seized. He has denied the suggestion that the Ext. 21 napkin was of "Care Coffee Day" and not of "Café Coffee Day". He has identified the house of the accused Gobind Singhal. He did not record the statement of the land lord of the house of the accused Gobind Singhal. In the Ext. 26 seizure list, the date, time and place of seizure are not filled up. He has collected the Ext. 27 from the house of the father of the victim. It was dated 05.11.2K. There is no mention about the names and address of the parents of Sweta Agarwal. Above the seal, there is no signature. He cannot say who had attested the same. He did not verify the same from the Marwari Maternity Hospital, Guwahati. He did not examine the pathologist whose name appeared in the Ext. 27. In the column referred by, there is mention of Dr. (Self). *(Self is written when a person goes to a laboratory for investigation without being referred by a Doctor).*

50. On 12.02.2018, Shri Om Prakash Agarwal, the father of Sweta Agarwal came to the Bharalumukh Police Station with two documents, one is a Photostat copy of the birth certificate of Sweta Agarwal and the other is a laboratory report (Ext. 27). He received the same at the Police Station. He did not verify the correctness of the documents. He did not exhibit the forwarding report of sending the blood sample collected by the doctor and preserved in sodium fluoride. At the time of conducting Post-mortem examination, the doctors collected the viscera, stomach of the deceased and also collected and preserved the blood sample in sodium fluoride and in rectified spirit. Those were handed over to him. The quantity of blood sample collected is not mentioned in the Post-mortem report. It is not mentioned in the Post-mortem report in what container those were preserved. He sent 2 ml. blood sample to the FSL, Kahilipara. But, in the Post-mortem report, there is no mention that 2 ml. blood was collected. He forwarded one plastic Jar containing the stomach,

with its contents, preserved in rectified spirit and another plastic Jar containing portion of brain, lungs, liver and kidney, preserved in rectified spirit, one plastic vial containing 3 ml. blood preserved in sodium fluoride, one glass bottle containing sample of preservative, i.e. rectified spirit, to the FSL, Kahilipara. The Forensic report disclosed that 2 ml. blood sample of the victim was received in an EDTA vial.

51. Let us now discuss the testimonies of the remaining prosecution witnesses to find out whether they have corroborated the prosecution case?

52. PW-5 Pankaj Kumar has deposed that he is a barber by profession and he has a saloon at J.P. Agarwala Road, (the road where the house of the accused is situated). On the day of the occurrence, at around 03.00 P.M., while he was going back to his saloon after taking lunch, he saw that the accused Gobind Singhal was putting a bag in his motorcycle. He saw blood oozing out from the sack. He then asked the accused Gobind Singhal as to why blood was coming out from the bag. The accused Gobind Singhal told him that it was not blood, but colour. The accused Gobind Singhal was residing along with his parents and sister. His statement was recorded in the court. Ext-7 is his said statement. Ext-7(1), Ext-7(2) and 7(3) are his signatures therein.

53. In the cross-examination, the PW-5 has stated that he used to go to take lunch at around 2:00/2:30 pm and usually returns after taking lunch within 30 minutes. He saw the accused Gobind Singhal inside the boundary of their house which was adjacent to the road. He does not remember the colour of the motorcycle. But, the motorcycle was a Super Splendor motorcycle. He saw the accused Gobind Singhal while he was returning to his salon. He saw the accused Gobind Singhal from a distance of four to five feet and he was tying the bag in his motorcycle. There was a boundary wall of three feet height. He saw the red drops pouring from the sack. He asked the accused Gobind Singhal why blood was oozing out. The accused told him that the same was colour. He cannot say whether the same was colour or blood. He saw the same while he was walking and did not stop to see the same. He did not see whether the sack was already tied or not. The bag was tied in horizontal position. As he saw from

a distance, he cannot say about exact measurement of the bag. But, the bag appears to him to be of one-and-half feet to two feet size. He did not tell about the same to anyone on that day and went to his salon. In the evening, he heard about the murder. He did not tell anyone on that day and also did not go to the police. The police called him but he did not remember when the police called him. After two/four days, the police called him. The Police examined him and he told the police about the incident. The police did not tutor him. The police took him to the Court and there was nobody else. He had denied the suggestion that he has given statement before the Magistrate as tutored by the police. He does not know the father of the deceased or other members of her family. He has denied the suggestion that he has deposed falsely on being tutored by the police. He has denied the suggestion that he did not see anything.

54. Thus, by cross-examining the PW-5, the defence has failed to bring out anything based on which it can be said that he was not telling the truth. Further, as the PW-5 is a resident of the locality of the accused, he knows the accused persons. Defence did not challenge him in the cross-examination that he did not see the accused Gobind Singhal from a distance of four to five feet tying a bag in his motorcycle though the father of the accused Gobind Singhal (the DW-1 and his testimony discussed below) deposed that the motorcycle belonged to him and he never allowed the accused Gobind Singhal to ride the motorcycle and always keeps the key of the motorcycle with him. But, the PW-5 has proved his testimony to be after thought, manufactured for the purpose of defence. Defence should have challenged the PW-5 that the accused Gobind Singhal did not have a motorcycle or he never drives the motorcycle of his father. Further, the PW-5 is a natural witness to see the accused Gobind Singhal taking the bag in his motorcycle. By cross-examining the PW-5, the defence could not bring out anything at all and also did not even suggest to the PW-5 that he has any enmity with the accused persons and hence, he has deposed falsely against the accused. Therefore, the testimony of the PW-5 must be accepted to be true.

55. In the case of **Manoj Kumar vs. The State Of Uttarakhand, reported in (2019) 5 SCC 667**, the Hon'ble Supreme Court has held that:-

"11. In the absence of any existing enmity between the accused and the witnesses there exists no ground to question the veracity of the witnesses or to raise a ground of false implication..."

56. In the instant case, the accused did not even try to prove that the PW-5 has enmity with them or that he has deposed falsely against them. The PW-5 did not even know the deceased and the members of her family. Further, the defence did not suggest to the PW-5 that the accused Gobind Singhal was not tying the bag in the back of his motorcycle or that the accused Gobind Singhal does not know how to drive a motorcycle. Therefore, the question of his deposing in favour of the deceased and the members of her family and against the accused persons does not arise. Therefore, the testimony of the PW-5 must be accepted to be true and prosecution case, as deposed by the investigating officer (the PW-20) that, after committing the murder, the accused Gobind Singhal put the dead body in a sack, tied the sack in the back side of his motorcycle and carried the dead body for dumping in a safe place, must be accepted to be true.

57. PW-3 Dhananjay Roy, the Secretary of the Bharalumukh Nagarik Samity (A society of the people of the locality) has deposed that on 08.12.2017, at around 12:00/12:30 pm. the Bharalumukh Police called him and accordingly, he went to the Bharalumukh Police Station. He was accompanied by Shri Hemen Sarma, the Secretary of old Ward No. 12. At the Police Station, they met another person namely, Gostu Biswas. From the Police Station, they were taken to the residence of the accused Gobind Singhal. The house of the accused Gobind Singhal was under lock and key. The Police opened the lock in their presence. The accused Gobind Singhal accompanied the police and on being led by him, the police recovered one light green colour folding knife. The Police also recovered the chappal of the deceased Sweta Agarwal. The Police also found one pair of hand gloves, one nylon rope and one cloth for cleaning the floor with blood stain. The Police seized those articles vide Ext. 3 seizure list.

Ext. 3(1) is his signature therein. Material Ext. 1, corresponding to MR No. 298/17, is the folding knife. Material Ext. 2 is the black jeans pant, corresponding to MR No. 298/17. Material Ext. 3 is the pair of hand gloves, corresponding to MR No. 298/17. Material Ext. 4 is the ladies hand bag, containing Admit card of the deceased Sweta Agarwal, one calculator, one ladies watch, a key and one half filled plastic water bottle. Material Ext. 4, corresponding to MR No. 298/17 is the hand bag. On the next day, i.e. on 09.12.2017, he was again summoned to the Bharalumukh Police Station. On that day, at around 11:00 am, they were again taken to the house of the accused Gobind Singhal. Gobind Singhal also accompanied the police. The Secretary of the old Ward No. 12 Shri Hemen Sarma also went with them. On that day, on being led by the accused Gobind Singhal, the police recovered another knife with aluminum handle. The Police also recovered one Hero Honda Splendor motorcycle. The Police also recovered a piece of nylon rope and one pair of shoes of the deceased Sweta Agarwal. Ext. 4 is the seizure list by which the police seized five articles from the house of the accused Gobind Singhal. Ext. 4(1) is his signature. Material Ext. 5, corresponding to MR No. 299/17, is the knife. Material Ext. 6 is the yellow coloured nylon rope, corresponding to MR No. 299/17. Material Ext. 7 is the ladies shoe, corresponding to MR No. 299/17. Material Ext. 8 is the floor cleaning cloth, corresponding to MR No. 299/17. On 10.12.2017 also, he was called by the Bharalumukh Police and on that day, at around 11:00/11:30 am, the police visited the house of the accused Gobind Singhal, led by the accused Gobind Singhal. He was asked by the police to accompany them. Gostu Biswas was also present with them. On that day, the police seized ten articles in his presence. Ext. 5 is the seizure list and Ext. 5(1) is his signature. Material Ext. 9 is the pen drive, corresponding to MR No. 300/17. Material Ext. 10 is the Lenovo Laptop, corresponding to MR No. 300/17. Material Ext. 11 is the Compact Disk, corresponding to MR No. 300/17. Material Ext. 12 is the Levis money bag, corresponding to MR No. 300/17. Material Ext. 13 is the cash amount of Rs.1,02,500/-, corresponding to MR No. 300/17. Material Ext. 14 is the Long exercise book of Roll No. 0063, in the name of the accused Gobind Singhal, corresponding to MR No. 300/17. Material Ext. 15 is

the non-judicial stamp paper of Radheshyam Singhal, corresponding to MR No. 300/17. Material Ext. 16 is the packet of Rat Killing medicine, corresponding to MR No. 300/17. Material Ext. 17, Material Ext. 18 and Material Ext. 19 are the mobile handsets, seized on 08.12.2017, corresponding to MR No. 298/17. Material Ext. 20 and Material Ext. 21 are the hand written notes, recovered and seized in his presence from the house of the accused Gobind Singhal on 08.12.2017, corresponding to MR No. 298/17. Material Ext. 22 is the plastic bottle containing kerosene oil. He saw the same in the house of the accused Gobind Singhal. One match box was also there. Material Ext. 23 is the said match box. He does not know whether the police seized the same or not.

58. In the cross-examination, he has stated that one Sudip Choudhury called him to the Bharalumukh Police Station. He does not know Sudip Choudhury personally. On the day of the occurrence, he was not present at the scene of crime. On 08.12.2017, when he received the call from the Bharalumukh Police Station, he was in his house. Immediately, he went to the Bharalumukh Police Station. His house is situated at a distance of about one-and-half kilometer away from the Bharalumukh Police Station. He went to the Bharalumukh Police Station alone and he found Hemen Sarma there, who was known to him. He also found Gostu Biswas, whom he saw for the first time on that day. He reached the Bharalumukh Police Station at around 12:40 P.M. and from there, they were taken to the house of the accused Gobind Singhal at around 02:00 P.M. The investigating officer, two/three other police personnel and the three of them went to the house of the accused Gobind Singhal. They went walking. The investigating officer opened the lock in their presence and entered into the room. They also entered into the room. After entering into the room, they first found the folding knife in the showcase on the left side of the door. He does not remember in detail whether the knife was on the floor or on the top of the showcase. The ladies shoes of the deceased were lying at a distance of about four feet away. Thereafter, the investigating officer found three mobile handsets. He does not remember the maker of all the mobile handsets, but one was MI and another was Samsung. The mobile handsets were found in the drawer of the drawing room/bed room. The Police also found

the floor cleaner (cloth) on the right side of the entrance of the room. The hand gloves were found on the top of the showcase. A black jeans pant was also found. One Ladies bag was found on the bed. Inside the bag, there was admit card of the girl and other documents, one ladies watch and ID proof documents. He cannot remember whether other articles were also seized. He cannot remember the time taken in making the search and seizure. He cannot remember the exact time when they came out from the house. He put his signature in the seizure list in the house of the accused Gobind Singhal. On that day, the Police told him that if required, they will call him again. On the next day, he was again called at 9:00/9:30 am. On that day also, he and Hemen were there. The investigating officer was also there along with three/four other police personnel. They were about seven persons. They reached the house of the accused Gobind Singhal at around 11:00/11:05 am. The investigating officer opened the lock. He cannot remember exactly how many persons entered into the room. The Police recovered the nylon rope outside the house. He cannot remember the length of the rope. It was found with the motorcycle. He cannot remember exactly which articles were recovered on that day. He has to see the seizure list. He cannot remember for how much time they were there. On the next day also, he was asked to go there at around 9:00/9:30 am. At around 11 o'clock, they went to the house of the accused Gobind Singhal. On that day also, six/seven persons went to the house of the accused Gobind Singhal. He and Gostu Biswas, the investigating officer and three/four other police personnel were there. On that day, the police recovered one laptop, one pen drive, one CD, etc., from the room. He cannot remember the exact location, but those were recovered from inside. Money was recovered from the Almirah. The investigating officer counted the money. The notes were of 500/- denominations and less. Ten rupees, five rupees notes were also there. The napkins with handwritings were recovered on the first day, i.e., on 08.12.2017 and those were found under the bed. He saw the kerosene bottle and match box on 10.12.2017. He cannot recollect exactly, but it was found inside. He also cannot recollect whether both the match box and the kerosene bottle were at the same place or not. The seizure lists were prepared in the house of the

accused Gobind Singhal and those were signed by him in the place of occurrence itself. As the Secretary of the Nagarik Samity, he used to visit the Bharalumukh Police Station and he knows the Officer In-charge of the Bharalumukh Police Station. He saw other officers, but he does not know much about them. Prior to the incident, he did not have acquaintance with the S.I. Sudip Choudhury. He has two mobile numbers. One is 9706112650 and the other is of Jio sim and he cannot remember the number now. He cannot recollect in which number he received the phone call from the S.I. Sudip Choudhury. He has denied the suggestion that from 04.12.2017, he was in touch with the S.I. Sudip Choudhury and he contacted him from before to become witness of seizure. He has denied the suggestion that he did not visit the house of the accused Gobind Singhal, even for a single day. He has denied the suggestion that he signed in the seizure lists at the Police Station. He cannot remember whether the local people were present or called by the police. The members of the family of the accused Gobind Singhal were not there. He has denied the suggestion that he is a stock witness of the police.

59. PW-4 Shri Hemen Sarma has deposed that he is a businessman. He is also the Secretary of the Nagarik Samittee of the Ward No. 12. He is also the Secretary of the Joint Committee of the five Nagarik Samittee of five Wards under Bharalumukh Police Station. As the Secretary of the Nagarik Samittee, he accompanied the police personnel to the house of the accused Gobind Singhal. On 08.12.2017, at around 02:00 pm, he went to the house of the accused Gobind Singhal. The accused Gobind Singhal also accompanied the police personnel. After entering into the house, they were taken to the toilet. In the toilet, on the ceramic tiles, there were blood stains everywhere. He came to know that Sweta Agarwal was killed there. Inside the house, on being shown by accused Gobind Singhal, the police recovered some articles. The Police seized the same vide Ext. 3 seizure list. Ext. 3(2) is his signature. In his presence, the Material Ext. 17, Material Ext. 18 and Material Ext. 19 mobile handsets were seized by the police. Material Ext. 3 is the pair of hand gloves, which was also seized by the police in his presence. Material Ext. 1 is the green colour folding knife, which was also seized by the police in his presence. The

Police also recovered one jeans pant and Material Ext. 2 is the said jeans pant. Material Ext. 4 is the ladies handbag, which was recovered by the police in his presence. Inside the bag, so far he can remember, there were one admit card, one plastic water bottle, scale, etc. The Police also seized the Material Ext. 20 and Material Ext. 21 in his presence, which are hand written notes on napkin of Café Coffee Day. On the next day, i.e. on 09.12.2017, at around 10:00/10:30 am, again he was asked to accompany the police to the residence of the accused Gobind Singhal. The accused Gobind Singhal also accompanied the police personnel. Dhananjay was also there. There were one/two other persons. On that day, the police seized about five articles from the house of the accused Gobind Singhal and seized the same vide Ext. 4 seizure list. Ext. 4(2) is his signature therein. On that day, the police seized one motorcycle with blood stain near the rear seat. The Police also seized one knife from the house. Material Ext. 5 is the said knife. The police also seized one nylon rope. According to Gobind Singhal, the dead body was tied in the motorcycle with that rope. So far as he can recollect, it was found inside the house. Material Ext. 6 is the said nylon rope. The Police also recovered and seized one pair of ladies shoes from the house. Material Ext. 7 is the said pair of shoes. The police also seized one floor cleaning cloth with blood stain. Material Ext. 8 is the said floor cleaning cloth. The accused Gobind Singhal told the police that on that day, the victim girl accompanied him to their house and there they offered her tea. While they were taking tea, a quarrel ensued between them and he pushed the deceased in to the wall. The deceased sustained injury on the back of the head and became unconscious. Blood was oozing out and seeing the same, he got frightened and put her inside a bag and thereafter, tying the body in the motorcycle, he took the body near the R.G. Baruah College at Fatashil Ambari. He dumped the body near a dustbin, but brought back the body to their house. After bringing the body to his house, he cleaned the body and removed the blood stain. The accused Gobind Singhal also told that he threw the bag over the boundary fencing in to the river Bharalu. The accused Gobind Singhal also told that he did not set the body on fire and the body was set on fire in the dustbin near the R.G.Baruah College. He also told that the dustbin

was set into fire by someone. But, on being led by the accused Gobind Singhal, when they went there, they did not find any sign of burning of garbage there.

60. In the cross-examination, he has stated that he did not go to the house of the accused Gobind Singhal on the date of occurrence, i.e. on 04.12.2017. On 08.12.2017, the Sheirstadar of the Bharalumukh Police Station directed him over phone to go to the Bharalumukh Police Station. He received the phone at around 12:00/12:30 pm. He received the phone in his mobile No. 9435040380. He reached the Bharalumukh Police Station at around 1:30 pm. On going there, he met the Officer In-charge of the Bharalumukh Police Station. At around 1:50 pm, they proceeded towards the house of the accused Gobind Singhal. They walked to the house of the accused Gobind Singhal from the Bharalumukh Police Station. The Officer In-charge of the Bharalumukh Police Station, the ACP, the Second Officer and constables were there. He, Dhananjay and another person was also there. A few local people also gathered. The house was under lock and key and the police opened the house. He did not notice exactly who had entered into the house. Three/four persons entered into the house. The Officer In-charge of the Bharalumukh Police Station, the ACP and other officers entered into the house. So far as he can recollect, first they went to the toilet and thereafter, probably the blood stained floor cleaning cloth was recovered. It was not inside the toilet. The green colour small knife was found near the toilet. He saw the hand gloves when it was picked up. He is not sure, but may be, it was found in the bed. The jeans pant was recovered from the next room. He did not see by opening it. The napkins, so far as he can remember, were found in or around the bag. They were there for about an hour. From there, he directly went to his house. He put his signature in the seizure list at the spot. On the next day, he received the phone call from the Bharalumukh Police Station at around 09:00 am. He reached the Bharalumukh Police Station at around 09:45 am. When he reached the Bharalumukh Police Station, the police party already started proceeding towards the house of the accused Gobind Singhal. On that day also, the ACP, the Officer In-charge of the Bharalumukh Police Station and other police personnel went to the house of the accused Gobind Singhal. The accused

Gobind Singhal was also present. Probably, the other civilians were the same persons, but he cannot exactly recollect. First, the Police seized the motorcycle. It was a Hero motorcycle. He cannot say if it was a Honda or any other model. It was of red colour. He cannot remember whether it was Splendor or Passion motorcycle. He did not see exactly from where the knife was seized on that day. The blade was plain and he cannot remember the handle of the knife. It appeared to him that it was made of hacksaw blade. Search was being made outside and inside the house. Sometimes, he was inside and sometimes, he was outside and all the articles were not recovered in his presence. On 08.12.2017 itself, the accused Gobind Singhal narrated the incident inside the house and showed how it was done. They were there by the side. Most probably, the ACP was asking him and he was narrating the incident. The Police did not record his statement. On 08.12.2017, in the evening, at around 6:00 pm, the accused Gobind Singhal led them near the R.G. Baruah College where he had first dumped the dead body. When they went near the RG Baruah College, the Officer In-charge of the Bharalumukh Police Station, other police personnel and one Mr. Pradeep Khandelwal were present there. Probably, he was the lone civilian with the police. The accused Gobind Singhal told them that he took the dead body inside a bag and carried it in his motorcycle and dumped the dead body in the dustbin near the RG Baruah College but, thereafter, brought back the dead body inside the bag to his house. Thereafter, he threw the bag in to the Bharalu River, which was flowing by the side of his house. The distance between his house and the Bharalu River is about ten to fifteen meters. On both the days, the accused Gobind Sinhal was with them inside the house. That was the first time; the Bharalumukh Police called him to become a seizure witness. He has denied the suggestion that he was not present at the time of seizure made by the police. He has denied the suggestion that the police brought the articles to the police station and thereafter, prepared the seizure list and obtained his signature at the police station. He has denied the suggestion that whatever he has stated before the court was tutored by the police. He has denied the suggestion that the Police compelled the accused Gobind Singhal to make false statement under duress and force.

61. PW-6 Pradip Khandelwal has deposed that he is a transporter. On 04.12.2017, in the evening, at around 5:00/5:30pm, he had been to a nearby PG (Paying Guest House) to meet the daughter of his friend. The PG was at J.P. Agarwala Road. At that time, he saw a crowd in front of the house No. 119. Seeing the crowd, he stopped there. He asked the people what the matter was and they told him that someone had been killed by burning. By that time, the police came out and collected the names of the people assembled there and asked them to leave. Accordingly, he left the place. The Police noted his name and mobile number, along with others. On 09.12.2017, he received a phone call from the Bharalumukh Police Station. It was about 08:30/09:00 am. He was in his residence at that time. The Police asked him go to the Bharalumukh Police Station. He reached there at around 9:30 am. On going there, he saw one boy present there. The Police told them that they would go to the house of that person and asked them to accompany them. He saw Dhananjay and Hemant Sharma there, whom he met on the road. The boy was Gobind Singhal and he is present in the court today. Thereafter, they accompanied the police to the house of Gobind Singhal. Gobind Singhal also accompanied them. They walked to the house by crossing the railway line. At the time of entering into the house, they saw some blood stain on the floor. They also saw a cloth with blood stain. After entering into the house, they were taken directly to the bathroom. In the entire bathroom, there were blood stain and also signs of burning. On that day, the police seized five articles in his presence. Ext. 4 is the seizure list. Ext. 4(3) is his signature. Ext. 5 is the sharp knife, which was seized by police on that day from the house. The Police also seized one nylon rope from near the bike. Material Ext. 6 is the said nylon rope. A pair of ladies shoes was also seized by the police, which was shown by the accused as the shoes of the deceased. Material Ext. 7 is the said pair of shoes. The Police also seized the floor cleaning cloth with blood stain. Material Ext. 8 is the said floor cleaning cloth. On the previous evening also, the police took him.

62. In the cross-examination, he has stated that the PG where the daughter of his friend was staying was in the nearby lane of the house of the accused Gobind Singhal. He reached there at around 5:30/6:00 pm. He stayed

for sometime in front of the house. After that, seeing the incident, etc., he returned to his house. He did not enter inside the gate of the house. He was on the road. There was a large crowd. The Police was there from before. Ambulance was also there. On that day, he did not see anything. On 08.12.2017, he received the phone call from the Bharalumukh Police Station. He was asked to go there and accordingly, he went there at around 6:30 pm. He did not receive any phone call from the Bharalumukh Police Station before 8.12.2017. His mobile No. is 9531051000. He has another No., which is 9864102734. He had no acquaintance with any of the members of the family of the victim or the accused. After he reached the Bharalumukh Police Station, the police proceeded towards Fatashil Ambari. He was taken in the jeep along with the accused. Hemant Sarma and the Officer In-charge of the Bharalumukh Police Station also accompanied them. S.I., I.O., and ACP also went to the place. Gobind Singhal talked to the police about the incident and the police understood his language. The Police told him if he wants to speak to the accused in Rajasthani language, he may speak to him. On humanitarian ground, he talked with the accused Gobind Singhal and asked him what had happened. He did not notice the watch, but it might be 7:00/7:30, when they reached there. They stayed there for about 15/20 minutes. From there, they returned to the Police Station and thereafter, he went to his house. The Police did not ask him anything regarding the incident. On the next day, he received a phone call from the Bharalumukh Police Station at around 8:30/9:00 am and reached the police station at around 9:30 am. At the police station, he saw Dhananjay Roy. They went to the house of the accused walking. Dhananjay Roy, Hemanta Sarma and two/three other persons also accompanied them. He could not recognize them. Gobind Singhal was also with them. He did not see the watch but it took 5/10 minutes to reach there. The door was locked when they reached there. Gobind Singhal was in the front and the police handed over the key to him and asked him to open the door. Gobind Singhal entered first along with police and they followed them. First, the police seized the blood stained cloth inside the house. It was lying on the floor, on the right side of the door. Thereafter, the ladies shoe was seized on being identified by the accused.

He saw blood stain inside the house and it was looking like an effort was made to wash the same. He did not notice whether the blood stain were coming out or going inside. He did not see the direction of the blood stain. He went directly inside the toilet. There were blood stains and also smell of burning. He saw the stain on the toilet walls. The knife was also recovered from the room from which the ladies shoe was recovered. On that day, he did not ask much, but he was telling the police. The motorcycle was also seized by the police. It was a Splendor bike. It was of red colour. The nylon rope was recovered from near the bike. It was of yellow type. He put all the signatures after verifying the same. He has denied the suggestion that the accused Gobind Singhal did not state anything to him. He has denied the suggestion that whatever he has stated before the court was from his imagination and is a manufactured story. He has denied the suggestion that he is a stock witness of the police and on being tutored by the police, he has deposed falsely.

63. PW-8 Shri Vijay Agarwal has deposed that the deceased Sweta Agarwal was his related niece. Her father is his cousin. On 27.12.2017, at around 7:00/7:30 pm, while he was sitting in the house of his cousin at Manipuri Basti, the investigating officer of the case, along with Rosy Kalita, Addl. DCP, Crime Branch and one Junior Officer arrived there. They collected and seized one College Exercise Book of the deceased Sweta Agarwal and one Resume of Sweta Agarwal for the purpose of investigation. At that time, one more gentleman was present in the house of Om Prakash Agarwal and so far as he can recollect his name was Sanjay Kabra. The investigating officer obtained his signature as a seizure witness. Ext. 7 is the seizure memo and Ext. 7(1) is his signature. By Ext. 7, Material Ext. 25 (Exercise Book) was seized by the Police. It was seized from the room of Sweta Agarwal.

64. In the cross-examination, he has stated that he was sitting in the drawing room. The exercise book was collected from the room of Sweta Agarwal. The room of Sweta Agarwal was visible from the place where he was sitting. He did not enter into the room of Sweta Agarwal. He saw the Resume of Sweta Agarwal which was collected by the Police. The Resume was in A4 size

and it was computer typed. He has not seen the Resume in the court. He cannot recollect whether the exercise book was ruled book or plain book. He did not go through the exercise book and as far as he can recollect, it was a mathematics exercise book. He cannot say whether the Police seized it of its own or anyone instructed them to seize it. The Police prepared the seizure list and obtained his signature. On that day, he went to the house of Om Prakash Agarwal in the evening, but he cannot recollect the exact time. It might be 5:00 pm/6:00 pm. The Police came after about ten minutes of his arrival. He cannot remember the exact time. He remained there for about ten/fifteen minutes more after the police left. Sanjay Kabra also signed in the exhibit. The members of the family of the deceased Sweta Agarwal were also there. The father, mother and grandmother of Sweta Agarwal were also present. Own brother of Sweta Agarwal was also there. He has denied the suggestion that nor has he seen anything, neither read anything, before putting his signature. He has denied the suggestion that he was called by the Police to remain present there as a witness. He has denied the suggestion that as he is related to the deceased Sweta Agarwal, to give her death a colour of murder, he is deposing falsely. Maybe, as he is the elder brother of Om Prakash Agarwal, the Police approached him to become a seizure witness. He has denied the suggestion that there were other independent persons too, but even then, the Police asked only him to put the signature. He has denied the suggestion that he put his signature in the seizure list at the Police Station. He has denied the suggestion that he was not present in the house of Om Prakash Agarwal at the time of seizure.

65. PW-12 Sanjay Kumar Kabra has deposed that he is a businessman and has been doing business in electrical goods. He knows Om Prakash Agarwal. Om Prakash Agarwal is his regular customer and he has friendship with him. The family of Om Prakash Agarwal consists of his mother, wife, son and daughter (since deceased). The name of his deceased daughter was Sweta Agarwal. On 27.12.2017, at around 06:00/07:00 P.M., he went to his house, situated at Bijuli Mill Galli at Rehabari. After sometime, the police arrived there

in connection with investigation regarding the murder of his daughter Sweta Agarwal. The Police seized one long exercise book (M. Ext.25) from the room of the deceased Sweta Agarwal. Ext.7 is the said seizure list, corresponding to MR No. 312/17. Ext. 7(2) is his signature therein. M Ext. 4(3) [on being shown to the witness] calculator was purchased from his shop by the deceased Sweta Agarwal and her mother.

66. In the cross-examination, he has stated that in that evening, he went to the house of Om Prakash Agarwal of his own. After fifteen/twenty minutes of his arrival, the Police arrived there. At that time, he was sitting in the Drawing-cum-Dining Hall. Save and except the inmates of the house, he and one Vijay Agarwal were present there. They all were sitting in the Drawing-cum-Dining Hall. The exercise book was seized by the police from the room of the deceased Sweta Agarwal. They were sitting in the hall when the police were searching the room of the deceased Sweta Agarwal. One resume of the deceased Sweta Agarwal was also seized by the police. The Police showed them the seized articles. The deceased Sweta Agarwal purchased the Material Ext.4 (3) from his shop after comparing the same with the other models of Casio. She also took his suggestion before purchasing. He does not know the accused Gobind Singhal. He knows the members of the family of the deceased Sweta Agarwal since last eight-ten years. The Police did not record his statement. He did not open the exercise book seized by the police. He also did not read the resume of the deceased Sweta Agarwal. The Police obtained his signature on the seizure list on the spot. He has denied the suggestion that on 27.12.2017, he was not present in the house of Om Prakash Agarwal and that nothing was seized in his presence. He has denied the suggestion that he has deposed falsely.

67. PW-13 Damodar Barman has deposed that on 05.12.2017, he was working as the Circle Officer at the Guwahati Sadar Circle and Executive Magistrate, Guwahati. On that day, at 10:30 am, he conducted inquest on a body in connection with Bharalumukh Police Station Case No. 805/17, under sections 302/376/120(B)/34 IPC, at the Bharalumukh Police Station. One Police Officer namely, Mr. Choudhury was present at the time of conducting the

inquest. The informant Jagdish Prasad Agarwal identified the dead body. He found burn injuries throughout the dead body. There were also other injuries. He also noticed injury on the right thigh and there were bleeding marks. On the head and face also, there were injuries and burn injuries were also present on the chest and stomach area. He noticed burn injuries and the wounds all over the dead body which, according to him, might have caused the death. Ext. 9 is the inquest report and Ext. 9(3) is his signature therein with his office seal.

68. In the cross-examination, he has stated that he was informed in the morning of 05.12.2017 by the Officer In-charge of the Bharalumukh Police Station to conduct inquest over the dead body. He reached the Bharalumukh Police Station at around 09:00am/09:30 am. The dead body was kept in a dead body carrying van, within the premises of the Bharalumukh Police Station. He did not notice any injury on the right hand, right leg, private parts, and on the back of the dead body. He noticed bleeding injury on the right thigh. He opined that the cause of death might be the burn injury, as well as the wounds. Whatever injuries he had seen, he has noted the same in the inquest report. The dead body was kept under proper security at the Bharalumukh Police Station premises. He has mentioned in the column 13 about the physical injuries, which he prominently noticed on the right thigh. Since the entire body was blackened with burn injury, he did not notice with his bare eyes any other injury. In the column No. 14, he put his signature, but subsequently, he struck it out and put his signature below. He struck it out because it was the place for signature of the witnesses. However, after striking it out, he did not put his initial. He has denied the suggestion that the dead body was not under proper security and anyone could have accessed it. The injuries found with his naked eyes were noted by him. During Post-mortem examination, the doctors may find other injuries due to their professional skill. In column No. 9, he mentioned about the burn injuries on both the legs. He did not notice any injury on the neck.

69. PW-14 Pranjit Dowarah has deposed that since 22.02.2017, he has been working as the ACP, Jalukbari. In connection with the Bharalumukh Police

Station Case No. 805/17, specimen signatures of the accused Gobind Singhal were collected in his presence. Ext. 11 is the specimen hand writing and signature of the accused Gobind Singhal which were collected in his presence. Ext. 11(1) is his signature with office seal. Ext. 12 is the copy of the specimen hand writing and specimen signature of the accused Gobind Singhal. Ext. 12(1) is his signature therein. The accused Gobind Singhal, who wrote the specimen writings and gave specimen signatures in his presence is present in the court.

70. In the cross-examination, he has stated that the specimen signature and specimen handwriting of the accused were taken in his presence by the investigating officer. In the Ext. 11 and Ext. 12, there is no signature of the investigating officer. The date on which the specimen handwriting and specimen signature of the accused were taken is also not mentioned. They always did not take permission from the court for collecting specimen handwriting and specimen signature. During the course of investigation, if the investigating officer thinks it necessary, the investigating officer may collect specimen handwriting and signature. He remained present only as the immediate supervising officer. He was connected with the case only as supervising officer. He has denied the suggestion that the Ext. 11 and Ext. 12 are fake documents. He has denied the suggestion that in the Ext. 11 and Ext. 12, there is no specimen signature of the accused Gobind Singhal. He has denied the suggestion that his signature and seal in the Ext. 11 and Ext. 12 were after thought. He has denied the suggestion that the Ext. 11 and Ext. 12 were not taken in accordance with the law.

71. PW-15 Sankar Chandra Rabha, Scientific Officer, Directorate of Forensic Science, Assam, has deposed that he had visited the scene of crime in connection with Bharalumukh Police Station Case No. 805/17. Thereafter, on 20.12.2017, he received a parcel through the Director, DFS, Kahilipara for serological examination. The parcel was in a sealed carton box covered with cloth. After opening the box, he found 4 separate packets consisting of 6 exhibits.

Description of articles-

1. 2 ml blood sample of victim girl in an EDTA vial marked as Ext. A (1). His examination No. sero 3904/A.
2. Blood collection from the motor cycle in cotton gauge bearing registration No. AS-01-BT-6977 of the accused Goind Singhal, marked as Ext. B. His examination No. Sero 3904/B.
3. Blood collection from Place of Occurrence, the toilet of the accused person, in a cotton gauge, marked as Ext. C. His examination No. Sero 3904/C.
4. One yellow colour plastic rope containing stain of suspected blood, marked as Ext. D. His examination No. Sero 3904/D.
5. One torn and half-burnt cloth containing stain of suspected blood. The exhibit was found in wet condition and growth of fungus, marked as Ext. E. His examination No. Sero 3904/E.
6. One black colour jeans long pant containing stain of suspected blood, marked as Ext. F. His examination No. Sero 3904/F.

During his visit to the scene of crime, he collected blood stain from the motor cycle in cotton gauge and handed over the same to the investigating officer.

After careful examination, he found as follows:-

1. Ext. No. Sero 3904/A, Sero 3904/C, Sero 3904/D and Sero 3904/F gave positive test for human blood of group B.
2. Ext. No. Sero 3904/B gave positive test for human blood only. But its group could not be determined due to insufficient test material.
3. Ext. No. Sero 3904/E gave negative test for blood.

As per the ABO system, there are four groups of human blood and those are- A, B, AB and O.

Ext. 13 is the report prepared by him consisting of two pages and Ext. 13(1) is his signature with office seal.

72. In the cross-examination, he has stated that he did not submit any

requisition for visiting the scene of crime. The investigating officer collected the blood sample on being shown by him. The blood sample was collected in his presence from the motor cycle kept at the Police Station. He did not visit the house of the accused. A different team of Scientific Officers visited the house. The parcel was received by the Director, DFS, from the Deputy Commissioner of Police (Crime). The specimen seal of the DSP (Crime), Guwahati and the Police Case No. was present in the parcel. He did not write in his report that as per the ABO system, there are four groups of human blood and those are A, B, AB and O. During serological examination, he found human blood group of 'B' only. He did not mention in his report whether it is positive or negative group of blood. As because the blood stains were collected from indirect source, it is difficult to identify whether it is positive or negative group of blood. In case of direct blood, it can be identified easily. As per forwarding by the investigating officer, the motor cycle belonged to Gobind Singhal. The original forwarding report is not in the record, but it is in his office file and if requires, he can produce the same. In the forwarding letter, there is no seal of the concerned Police Officer. He did not mention in the report the method he followed for examination of the blood sample. There was no parcel No. and as such, he did not mention it in the report. In the forwarding, there is mention of Exhibits but, no mention of any carton box covered with cloth. But, in the FSL receipt, there is mention of the carton box without any specification regarding the Exhibits inside it. Ext. A is the original FSL acknowledgement receipt. He has denied the suggestion that he submitted the report as per the instruction of the Police without proper examination. He has denied the suggestion that at their laboratory, there is no such sophisticated technology for grouping of blood in indirect method and for examination of the exhibits.

73. In his re-examination, PW-15 Sankar Chandra Rabha has stated that regarding his visit to the Bharalumukh Police Station on 12.12.2017, he has submitted a report. Ext. 14 is his report and Ext. 14(1) is his signature. It was forwarded to the ACP, Bharalumukh Police Station, by their Director K.C. Sarma. Ext. 15 is the forwarding letter and Ext. 15(1) is the signature of Dr. K.C. Sarma, which he can identify. Ext. 16 is his report dated 06.02.2018. On

25.01.2018, he received another parcel through Director in connection with the Bharalumukh Police Station Case No. 805/17, under sections 120(B)/302/376 IPC. The parcel contained the following articles-

1. Blood sample of victim Sweta Agarwal in EDTA vial marked as Ext. A. His examination No. Sero 3913/A.

2. One plastic handle small knife containing stain of suspected blood. Total length of the knife with handle was 11.7cm approximately marked as Ext. B. His examination No. Sero 3913/B.

Result of examination-

Ext. Sero 3913/B gave negative test for blood. So the question of matching with Ext. No. Sero 3913/A does not arise.

Ext. 16(1) is his signature. The said report was forwarded by their Director and Ext. 17 is the forwarding letter. Ext. 17(1) is the signature of Dr. G.N. Deka. His report dated 06.2.2018, marked as Ext. 13 was forwarded by the Director, DFS, Kahilipara to the DCP (Crime). Ext. 18 is the forwarding letter and Ext. 18(1) is the signature of Dr. G.N.Deka.

74. In the re-cross examination, he has stated that in the Ext. 16, he gave his specific finding that the stain found in the knife was not of blood. In the Ext. 14, i.e., in his report of inspection, he did not mention any Memo No. of requisition.

75. PW-16 Utpal Medhi has deposed that he resides at Bharalumukh, J.P. Agarwala Road. On 07.12.2017, while he was returning home from Chandmari, he saw many vehicles in front of the house of P.C. Majumder, where Gobind Singhal was also residing. His house is situated after the house of P.C. Majumder. As he was looking at the vehicles, the police persons and media persons in front of his house, two police persons came to him and told him that the Senior Police Officer had requested him to go there. He then went to the house of P.C. Majumder. The Senior Police Officer told him that they would open the lock in presence of local persons and requested him to become witness of the same. In his presence, the police opened the lock and entered into the room. He did not enter into the room and awaited outside. The Police

were there for about twenty/ twentyfive minutes. Once, he asked whether he could leave but, they requested him to stay and he stayed there. After sometime, the Police told him that they had seized some articles from the room and showed him the articles and obtained his signature in the seizure list. Ext. 19 is the seizure list and Ext. 19(1) is his signature.

76. In the cross-examination, he has stated that the police called him from the front of his house. He was called about three days after the actual incident. He cannot remember the exact time but it might be 1:00/1:30pm. There were about fifty to one hundred persons. It was very congested. He did not notice Gobind Sinhal, but there was a large crowd. The Police showed him the articles kept on the bed and he saw the same from the door. When the Police opened the lock, he was six/seven feet away. He did not notice whether the Police brought anything with them. About 15/20 persons, including the 8/9 Police personnel and media persons entered into the room. General public also entered but, he cannot remember who had entered. The general people who had entered into the room did not carry any articles in their hands. The Police collected the articles from the room. There were many persons including him and Police had shown all to them. In the seizure list, it is written as only plastic bottle but, the label of the maker is not mentioned. He did not read the seizure list but, the articles were shown to him. He cannot remember if there was any overwriting in the seizure list. He has denied the suggestion that the Police did not seize any article in his presence. He put his signature as a seizure witness as the Police asked him to become a witness.

77. PW-17 Dr Rupali Bhattacharya, Scientific Officer, Directorate of Forensic Science Laboratory, has deposed that she had received a plastic bottle with liquid contents for examination in connection with Bharalumukh Police Station Case No. 805/17. She received one sealed carton box with cloth cover containing one plastic bottle having 70 ml blue coloured liquid, marked as Ext. B. They marked the same in their laboratory as Ext. C-92/17. The Ext. C-92/17 gave positive tests for kerosene oil, which is inflammable. Material Ext.22 is the said bottle with liquid contents and Material Ext.22 (1) is their forensic tag. Ext. 22(2) is her initial with seal. She conducted the test on 25.12.2017. Ext.20 is

her report. Ext. 20(1) is her signature therein. Ext.21 is the forwarding letter and Ext. 21(1) is the signature of Shri G.N Deka, Joint Director, DFS, Kahilipara, which she can identify.

78. In the cross-examination, she has stated that the parcel was received from the DCP, (Crime) for examination. The parcel was in sealed condition and she opened the parcel. She examined the contents of the liquid from all the parameters including distillation, density and GC. It was pure kerosene. She received 70 ml of kerosene and now it is about 15 ml in the bottle. The rest was used by her for examination. They have an updated technology for examination of sample and she does not think that there can be any other technology or method for arriving at a more conclusive result.

79. PW-18 Mr. Athang Singson, Scientific Officer, Directorate of Forensic Science, Kahilipara, has deposed that he received a parcel consisting of one exhibit enclosed in a sealed paper envelope which was sealed with the impression of the seal corresponding to the seal impression forwarded. The parcel was received from a messenger in the office of the Directorate of Forensic Science on 21.12.2017, in connection with the Bharalumukh Police Station Case No. 805/17, under sections 120(B)/302/376 IPC. The parcel contained the following:-

One sealed envelope containing hair strands, suspected to be of human, marked as Ext. A and they marked it in their laboratory as Bio.3166. After physical, ultra structure and histological examination, he found that the hair under Ext. Bio.3166 is scalp hair of human being. He submitted the report on 03.01.2018. Ext. 22 is his report and Ext. 22(1) is his signature with seal therein. The report was forwarded to the DCP, Crime vide forwarding letter dated 04.01.2018. Ext.23 is the forwarding letter and Ext.23(1) is the signature of Shri G.N Deka, Joint Director, DFS, Kahilipara.

80. In the cross-examination, he has stated that he has not seen the sealed envelope in the Court. He has received the parcel on 21.12.2017 and submitted his report on 03.01.2018. A bunch of hair strands was given for examination.

Only a bunch of hair strands was given to him. He did not examine whether the scalp hair was of male or female. He did not examine to which age group of male or female, the scalp hairs belong. The Scalp hair was sent in connection with the present case and accordingly, he submitted the report. He does not know whether his report will help in the case or not. He does not know whether the scalp hair in his report will help in enlightening the case.

81. PW-19 Bapukan Choudhury, Junior Scientific Officer, Questioned Documents Division, DFS, Kahilipara has deposed that on 21.12.2017, the office of the DFS, Kahilipara received a parcel for examination and opinion. It was received from the DCP (Crime), Guwahati, Assam. The parcel was in sealed envelope and it was received in connection with the Bharalumukh Police Station Case No. 805/17, under sections 120(B)/302/376 IPC. After opening the sealed envelope, he found one long note book (Material Ext.14), two laminated sheets (Material Ext. 20 and 21) and one sheet containing specimen handwriting and specimen signature of the accused Gobind Singhal (Ext.11 is the said sheet). After going through the material exhibits, he went through the forwarding letter to know about the queries made by the police. The queries were:

- i. Whether the handwriting of Ext. A, B and C matched with each other or not?
- ii. Any other point which can help in the investigation?

In the Material Ext.14 (long exercise book), he marked Ext. A-1 to A-15 as the admitted handwriting of the accused Gobind Singhal. He compared those admitted handwriting with Ext.11 and Material Ext.20 and 21.

Opinion:

1. The document in connection with Bharalumukh Police Station Case No. 805/17, under sections 120(B)/302/376 of the IPC have been carefully and thoroughly examined and comparing the disputed writings with the supplied standard writings and signatures in all aspects of handwriting identification and detection of forgery with necessary scientific aids like stereo zoom microscope, Docucenter 3000 and VSC 6000 available in their Directorate.

2. The person who wrote the blue enclosed writings and signatures stamped and marked S-1 to S-8 and A-1 to A-15 also wrote the red enclosed writings similarly stamped and marked as Q-1 to Q-3.

Ext.24 is the report prepared by him and Ext. 24(1) is his signature therein. His report was forwarded by the Joint Director, DFS, Kahilipara to the DCP, Crime. Ext.25 is the forwarding letter and Ext. 25(1) is the signature of Shri G. N. Deka, Joint Director, which he can identify.

Material Ext. Q2 and Q3 are marked in the Material Ext. 20(1) and Material Ext. Q1 is marked in the Material Ext. 21 (1).

82. In the cross-examination, he has stated that the parcel was received by the Director, DFS, Kahilipara and he forwarded the same to the Incharge, Questioned Document Davison and he received the parcel from their Incharge. He received the envelope in sealed condition and he himself opened the envelope. He has received the parcel on 21.12.2017. He has submitted his report on 03.01.2018. The parcel consisted of one long exercise book, two laminated sheets and one sheet containing specimen handwriting and signature of the accused Gobind Singhal. He knows the name of the victim from the forwarding letter. But, in neither of the questioned documents, the name of the victim is mentioned. He does not know whether the documents are associated with the murder of Sweta Agarwal or not. But, those were sent to him in connection with the Bharalumukh Police Station Case No. 805/17. He does not think that by using other technology like ultraviolet rays, they could have obtained better result. This is not a case of ultraviolet rays because there was no erasing or obliteration. The Joint Director, DFS, Kahilipara forwarded the report to the DCP (Crime). He has denied the suggestion that the opinion given by him is biased and not at all reliable. He has denied the suggestion that the technology used for examining the questioned documents are not reliable technology and there is other technology which could have given more precise result.

83. As can be from the testimonies of the prosecution witnesses discussed

above, the case is based on the circumstantial evidence of recovery of the dead body of the deceased Sweta Agarwal from the house of the accused persons and the accused persons informing the informant, the mother of the deceased and the police that the dead body of the deceased Sweta Agarwal was lying dead in their house and that she had committed suicide by setting herself on fire. But, as the medical evidence discussed above has proved beyond all reasonable doubt that the deceased Sweta Agarwal died due to hemorrhage and shock following incised injury sustained over the neck, which was caused by sharp cutting weapon and was homicidal in nature, how the deceased sustained the said incised injury on her neck in the house of the accused persons while the accused persons and the deceased Sweta Agarwal were only present in their house, was known to the accused persons only. Therefore, the accused persons should have explained under what circumstances, the deceased Sweta Agarwal sustained the fatal incised injury on her neck in their house, in their presence. Further medical evidence has also proved presence of ligature mark over the neck and the burn injuries as described in the post-mortem report and the medical officers (the PW-9, PW-10 and PW-11) have categorically deposed that the injuries, especially the incised injury over the neck, the ligature mark found over the neck and the burn injuries can also cause death of a person even if proper treatment is provided. Therefore, the accused persons should have explained under what circumstances the deceased Sweta Agarwal sustained the incised injury over the neck, the ligature mark over the neck and the burn injuries in their house in their presence. But, their only explanation was that the deceased Sweta Agarwal set herself on fire, which was actually done by the accused persons to conceal the act of murder, as has been discussed above.

84. In the case of **Munish Mubar -Versus- State of Haryana, reported in (2012) 10 SCC 464**, the Hon'ble Supreme Court has held as follows:-

"It is obligatory on the part of the accused, while being examined under Section 313 Cr.P.C., to furnish some explanation with respect to the incriminating circumstances associated with him, and the court must take note

of such explanation, even in a case of circumstantial evidence, so as to decide, whether or not, the chain of circumstances is complete."

85. In the instant case, the accused did not explain under what circumstances the deceased Sweta Agarwal sustained the incised injury in the neck, the ligature mark on the neck and the burn injuries covering forty to fifty percent of the body surface area in their house while the deceased Sweta Agarwal and they only were present in their house. Further, in his examination under Section 313 Cr.P.C., the accused Gobind Singhal has stated that he does not know how the deceased Sweta Agarwal had sustained the cut injury in the neck and the burn injuries. The accused Gobind Singhal has further stated that when the deceased Sweta Agarwal was found in their house, she was alive. He has further stated that he informed the Bharalumukh Police dialling the No.100 and told them that Sweta Agarwal had sustained cut wound and burn injuries and she should be shifted to the hospital. He has further stated that at that time, his mother Smt. Kamla Devi Singhal and sister Smt. Bhavani Singhal, were also present in their house. He has further stated that had the deceased Sweta Agarwal been provided with proper treatment, she would have been alive today. But the medical evidence has nullified the contention of the accused as the PW-9 has categorically stated in the cross-examination that the injuries, especially the incised injury No. 7, the ligature mark described over the neck and the burn injuries can also cause death even if proper treatment was provided. Defence did not challenge the PW-9 in the cross-examination on his above deposition. Therefore, this testimony of the the PW-9 must be accepted to be true.

86. In the case of **Mukesh Vs. State (NCT of Delhi)**, reported in **(2017) 6 SCC 1**, the Hon'ble Supreme Court held that,

"205. The aforesaid submission can be singularly rejected without much discussion on the foundation that a question to that effect was not put to the doctors in their respective cross-examinations..."

87. Therefore, as the accused Gobind Singhal has admitted that the deceased Sweta Agarwal sustained the cut injury on her neck and the burn

injuries on her body and at that time, he and the co-accused Smt. Kamla Devi Singhal and Smt. Bhavani Singhal only were present in their house, an adverse presumption has to be drawn against the accused persons that they had caused the incised injuries and the burn injuries to the deceased Sweta Agarwal.

88. In the case of **State of Rajasthan Vs. Mahavir @ Mahavir Prasad, reported in AIR 1998 SC 3041**, the Hon'ble Supreme Court observed as follows:-

"11. As indicated earlier, it is not disputed that the respondent and his wife were staying together and none else was residing with them. Therefore, if death occurs in suspicious circumstances, a reasonable explanation was expected from the respondent..."

89. In the case of **DHAL SINGH DEWANGAN Vs. STATE OF CHHATTISGARH, reported in AIR 2016SC 4745**, the Hon'ble Supreme Court has held as follows:-

"24... As per Section 106 of the Evidence Act, it is the duty of the accused to explain the incriminating circumstance proved against him while making a statement under Section 313 of Cr.P.C. Keeping silent and not furnishing any explanation is an additional link in the chain of circumstances to sustain the charges against him..."

90. Again in the case of **RAMNARESH AND OTHERS Vs. STATE OF CHHATTISGARH, reported in (2012) 4 SCC 257**, the Hon'ble Supreme court has held as follows:-

"21. In terms of Section 313 Code of Criminal Procedure, the accused has the freedom to maintain silence during the investigation as well as before the Court. The accused may choose to maintain silence or complete denial even when his statement u/s 313 Code of Criminal Procedure is being recorded, of course, the Court would be entitled to draw an inference, including adverse inference, as may be permissible to it in accordance with law. Right to fair trial, presumption of innocence unless proven guilty and proof by the prosecution of

its case beyond any reasonable doubt are the fundamentals of our criminal jurisprudence. When we speak of prejudice to an accused, it has to be shown that the accused has suffered some disability or detriment in relation to any of these protections substantially. Such prejudice should also demonstrate that it has occasioned failure of justice to the accused. One of the other cardinal principles of criminal justice administration is that the courts should make a close examination to ascertain whether there was really a failure of justice or whether it is only a camouflage, as this expression is perhaps too pliable. (Ref. Rafiq Ahmed @ Rafi Vs. State of U.P., AIR 2011 SC 3114, (2011) 8 SCC 300).

22. It is a settled principle of law that the obligation to put material evidence to the accused u/s 313 Code of Criminal Procedure is upon the Court. One of the main objects of recording of a statement under this provision of the Code of Criminal Procedure is to give an opportunity to the accused to explain the circumstances appearing against him as well as to put forward his defence, if the accused so desires. But once he does not avail this opportunity, then consequences in law must follow. Where the accused takes benefit of this opportunity, then his statement made u/s 313 Code of Criminal Procedure, in so far as it supports the case of the prosecution, can be used against him for rendering conviction. Even under the latter, he faces the consequences in law."

91. The ratio of the aforesaid cases are squarely applicable to the case in our hand as at the time of the death, the deceased Sweta Agarwal was present in the house of the accused persons and admittedly, except the deceased Sweta Agarwal and the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal, no one else was present in the house of the accused at that time. Therefore, in the facts and circumstances of the case, non-explanation of the accused about the incised wound in the neck, burn injuries on the body and the ligature mark in the neck must be held to be admission that it was the accused who had inflicted the said injuries to the deceased as the medical officers have deposed that the injuries, especially the incised injury No. 7 (incised wound in the neck), the ligature mark over the neck and the burn injuries can also cause death, even if proper treatment is provided. Therefore, in the instant case, an adverse presumption has to be drawn against the

accused persons that they had caused the incised injuries, ligature mark over the neck and the burn injuries to the deceased Sweta Agarwal and committed her murder by intentionally causing her death.

92. In the case of **Shambu Nath Mehra Vs. The State of Ajmer, reported in, AIR 1956 SC 404 : (1956) CriLJ 794**, the Hon'ble Supreme Court held as follows:-

"14. This lays down the general rule that in a criminal case the burden of proof is on the prosecution and section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish facts which are "especially" within the knowledge of the accused and which he could prove without difficulty or inconvenience..."

93. In the instant case, the accused persons did not explain under what circumstances the deceased Sweta Agarwal sustained the incised injury in the neck, the ligature mark over the neck and the burn injuries in their house. Therefore, an adverse presumption has to be drawn against the accused persons that they had caused the same to the deceased.

94. Further, the statements of the accused Gobind Singhal was recorded on 12.02.2019 and the statements of the accused Kamala Devi Singhal and Bhabani Singhal were recorded on 01.03.2019 that is, after a long gap of recording the statement of the accused Gobind Singhal. Therefore, the accused Kamala Devi Singhal and Bhabani Singhal have realized that the accused Gobind Singhal has committed a blunder by admitting about the existence of the incised injury in the neck and burn injuries in the dead body deceased Sweta Agarwal and implicated all of them by his statement, they tried to improve their case by stating that they had called the police dialing the emergency number "100" and the "108 Ambulance Service". They have further stated that when the deceased Sweta Agarwal was taken out from their

house, she was alive and there were no cut mark on her neck. The deceased Sweta Agarwala was alive and she was taking breath when she was taken away from their house. The deceased Sweta Agarwala was a psychopath and the same can be gauged from the status of her Hike Messenger Account. But, they did not answer the question how the deceased Sweta Agarwala sustained the fatal incised injury in the neck and burn injuries on her body in their house. The accused Gobind Singh has stated that he does not know how the deceased Sweta Agarwala sustained the cut injury on the neck and the burn injuries on the body, which proves that the cut injury on the neck and burn injuries in the body were present when the dead body was recovered from their house and taken away by the police. The accused Gobind Singh has further stated that he informed the Bharalumukh Police Station dialing emergency No. "100" and told them that the deceased Sweta Agarwala had sustained cut wound and burn injuries and that she should be shifted to the hospital. At that time, his accused mother Kamala Devi Singh and accused sister Bhabani Singh also were present in their house. Therefore, the accused Gobind Singh has admitted that the deceased Sweta Agarwala sustained the cut injury on the neck and the burn injuries on the body while she was present in the house of the accused with the accused persons only. Therefore, the subsequent explanation by the accused Kamala Devi Singh and Bhabani Singh and remaining silent about the injuries and only saying that they called the police by dialing the emergency No. "100" and the "108 Ambulance Service" and when the deceased Sweta Agarwala was taken away from their house, she was alive and there was no cut mark on her neck or burn injuries on her body, are futile attempt by them to rebut the tell tale story of committing the murder of the deceased Sweta Agarwala by them and trying to conceal the murder by setting the dead body on fire to portray the murder as suicide, a tactics normally adopted by the criminals. Further, if the deceased Sweta Agarwala sustained the cut injury in the neck and the burn injuries in the body, then why did the accused inform the police that the deceased Sweta Agarwala had committed suicide by burning and also called the 108 Ambulance? To conceal the brutal murder, the accused have messed up everything.

95. In Modi's Medical Jurisprudence and Toxicology, 23rd Edition, 2005, page No. 635, it is stated that, "Burns caused by kerosene oil are usually very severe and are known from its characteristic odour and the sooty blackening of the parts." Further, perhaps after coming across cases like the case in our hand, in Modi's Medical Jurisprudence and Toxicology, 23rd Edition, 2005, page No. 635, it is stated that, "People sometimes produce burns on a dead body to ... conceal an act of murder". This is what exactly the accused did in the instant case.

96. Further, the contention of the accused persons that the deceased Sweta Agarwala was a psychopath and the same can be gauged from the status of her Hike Messenger App is also an afterthought, baseless and defamatory allegations leveled against the deceased Sweta Agarwala, whom they had brutally murdered. Because, during his examination, the accused Gobind Singhal did not say anything about the Hike Messenger Account of the deceased Sweta Agarwal or that the deceased Sweta Agarwal was a psychopath. Therefore, the statement given by the accused Kamala Devi Singhal and Bhabani Singhal in their examination under Section 313 Cr.P.C. is improvement and in view of the earlier admission made by the accused Gobind Singhal, the same is not tenable in the eye of law.

97. Failing to shake the prosecution case, the learned counsel for the accused vehemently argued that admittedly, the search and the seizure of the incriminatory articles, blood stains etc., were not made from the house of the accused persons immediately after the incident and hence, it cannot be held that the seized articles were actually seized from the house of the accused persons. But, as can be seen from the testimonies of the PW-20, which is not challenged by the defence as false, as per the direction of the Officer In-charge of the Bharalumukh Police Station, immediately after the incident, the Investigating Officer went to the house of the accused persons, shifted the dead body of the deceased Sweta Agarwal and took the accused persons to the Bharalumukh Police Station, keeping house of the accused under lock and key. Thereafter, from the next day morning, accompanied by the accused Gobind

Singhal and the witnesses mentioned above, he went to the house of the accused persons and searched the house in presence of the accused Gobind Singhal and the independent witnesses as discussed above. There is no law which prevents the Investigating Officer from visiting the scene of crime to collect evidentiary material several times to make search and seizure. Therefore, in the facts and circumstances of the case, it cannot be held that the Investigating Officer has committed a blunder mistake by not searching the house of the accused persons on the day of the occurrence itself and seizing the articles.

98. Further, at the least, it can be safely held that the two articles, i.e. the bottle containing the kerosene oil (Material Ext-22) and the napkins of the Café Coffee Day (Material Ext. Nos. 20 and 21) with the above mentioned handwritings of the accused Gobind Singhal cannot be doubted as the defence did not deny the same. In fact, in reply to the question regarding recovery of the kerosene bottle (Material Ext-22), the accused Gobind Singhal has stated that, "they did not use kerosene oil in their house. The bottle might have been taken by the deceased wherein the finger print of the deceased Sweta Agarwal would have been there. But, the police deliberately did not submit the same in the court." Therefore, admittedly, the Material Ext-22 kerosene bottle was recovered and seized from the house of the accused persons and according to the accused Gobind Singhal, the Material Ext-22 kerosene bottle was taken by the deceased Sweta Agarwal to their house but, he did not prove the same by adducing any evidence. The DW-1 did not depose the same and the accused Gobind Singhal did not examine himself to prove the same. Therefore, it must be held that the accused persons had kept the kerosene oil in the Material Ext-22 bottle ready to commit the murder of the deceased Sweta Agarwal as otherwise, they would not have kept the kerosene oil in their house as according to the accused Gobind Singhal, they did not use kerosene oil in their house. Therefore, as after inflicting the fatal incised wound on the neck, kerosene oil was used to set the deceased Sweta Agarwal on fire to conceal the act of murder, it must be held that the accused were preparing for committing the murder of the deceased since long back.

99. Further, the Material Ext. 20 and 21 napkins of the Café Coffee Day seized from the house of the accused persons were sent to Forensic Science Laboratory with the specimen handwriting and signatures of the accused Gobind Singhal for comparing and the FSL reported that the specimen handwriting and signatures and the writings in the Material Ext. Nos. 20 and 21 napkins were written by the same persons.

100. Failing to shake the same, the learned counsel for the accused vehemently argued that as it is not stated in the specimen handwriting and signatures who had collected the same, it cannot be held that the same were written by the accused Gobind Singhal. But, as has been discussed above, PW-14 Pranjit Dowarah has proved the same as he has deposed that in connection with Bharalumukh Police Station Case No. 805/17, specimen signatures of the accused Gobind Singhal was collected in his presence. Ext. 11 is the specimen writing and signature of the accused Gobind Singhal which was obtained in his presence. Ext. 11(1) is his signature with office seal. Ext. 12 is the copy of the specimen writing and specimen signature of the accused Gobind Singhal. Therefore, I do not agree with the contention of the learned counsel for the accused. It is true that the Investigating Officer did not mention the name of the person who had collected the specimen handwriting of the accused, though it was he who had the same in presence of the PW-14 Pranjit Dowarah, who at the relevant time was working as the Asstt. Commissioner of Police, Jalukbari and who is a superior police officer. The PW-14 has categorically stated that the specimen signature of the accused Gobind Singhal was taken in his presence. Therefore, the contention of the learned counsel for the accused is rejected. Because, even though the Ext-11 and Ext-12 do not contain the date or time or the signature of the Investigating Officer, the same cannot be rejected as a superior police officer has proved the same and also put his signature with his office seal in the Ext-11 and Ext-12. Therefore, as the writings in Ext-20 and Ext-21 are ultimatum and threatening, though the accused Gobind Singhal did not mention the person to whom he has written the same, it is crystal clear that he has written the same to the deceased Sweta Agarwal. The Material Ext-20 and Ext-21 shows that the

accused Gobind Singhal had given a last chance to the deceased Sweta Agarwal to comply with his demand, may be to allow him to have sexual intercourse with her, as in the Ext-21 he has written that "I will surrender myself to you on bed".

101. The Material Ext-20 and Material Ext-21 and the Material Ext-22 proved beyond all reasonable doubt that the accused Gobind Singhal had been planning to commit the murder of the deceased Sweta Agarwal in a meticulous way and executed the plan on 04.12.2017, with the help of the co-accused, in a most brutal manner, which normal people will shudder to think.

102. Further, as can be seen from the discussion made above, some of the other seized articles contained human blood and the same proved that the accused have committed the murder inside their house as the blood was of the deceased Sweta Agarwal. Further, one of the seized articles was a Jeans trouser of the accused Gobind Singhal and the said Jeans trouser contained human blood. Therefore, it can be safely held that the accused Gobind Singhal committed the crime wearing the seized Jeans trouser. Further, in the facts and circumstances of the case discussed above, there is no necessity to prove that the deceased Sweta Agarwal was murdered in the house of the accused persons as admittedly, she died in the house of the accused persons, in their presence.

103. That the murder of the deceased Sweta Agarwal had shaken the collective conscience of the people can be gauged from the fact that on 07.12.2017, when the Investigating Officer went to the house of the accused Gobind Singhal for conducting search and requested the PW-16 Utpal Medhi, whose house is situated in front of the house of the accused persons to become a witness, has deposed that that he saw the police and Media personnel in front of his house. Defence did not challenge the PW-16 in the cross-examination that the police and the Media personnel were not waiting in front of his house and he was not called by the police to become a witness of the search and seizure.

104. Further, though there cannot be an iota of doubt that the death of the deceased Sweta Agarwal was caused by the accused persons by inflicting the cut injury on the neck by a sharp cutting instrument, even assuming while denying that the deceased Sweta Agarwal committed suicide in the house of the accused persons by pouring kerosene oil on her body and setting herself ablaze as the accused Gobind Singhal was not ready to marry her, then why the accused did not try to douse the fire and save her belies their contention. Why the three accused persons allowed the deceased Sweta Agarwal to pour kerosene oil on her body in their house and allowed her to set herself on fire and did nothing to extinguish the fire? Admittedly, in the building where the accused resided, many other families were also residing. Therefore, why the accused did not raise a hue and cry and informed the nearby people and tried to douse the fire? There is no explanation from the accused persons. Further, even assuming while denying the bizarre story of the accused to be true, then while the deceased Sweta Agarwal was burning, the accused were not at all concerned about the deceased Sweta Agarwal and were witnessing the burning of the innocent girl like the Emperor Nero playing Violin while the Rome was burning. The prosecution has proved beyond all reasonable doubt that the accused committed murder of Sweta Agarwal by inflicting the cut wound on the neck as deposed by the Medical Officers who had conducted the post-mortem examination on the body of the deceased Sweta Agarwal. Later on, to conceal the act of murder and to give the murder colour of suicide, the accused persons set the body of Sweta Agarwal on fire by pouring kerosene oil.

105. Defence examined Shri Radhyshyam Singhal, the husband of the accused Kamla Devi Singhal and father of the accused Bhawani Singhal and Gobind Singhal as DW-1 and two employees of the M/s Hike Limited to prove that the deceased Sweta Agarwala was a psychopath and she had committed suicide, which are false, baseless and defamatory allegations leveled against a dead girl. Let us therefore, discuss their testimonies to see whether they have been able to make the defence version probable by any standard?

106. DW-1 Shri Radheshyam Singhal has deposed that he is a businessman. He has business of packaging incense sticks. Ext. 'a' is his trade license. He has three daughters and a son. The name of his eldest daughter is Asha Singhal. She is a Chartered Accountant. Ext. 'b' is the certificate issued by ICAI and Ext. 'c' is the certificate of membership of ICAI. The name of his second daughter is Puja Singhal. She has passed the B.Com. examination in Second Class and has completed a course in computer science. The name of his youngest daughter is Bhawani Singhal. She is B.Com., M.Com., and passed her said examination in First Class from the University of Gauhati. Ext. 'd' is her M.Com., examination mark-sheet and Ext. 'e' is her B. Com. examination mark-sheet. Ext. 'f' to Ext. 'l' are her achievement certificates. The name of his son is Gobind Kumar Singhal. He has passed B.Com. examination in the First Class from Gauhati University. He is presently doing C.A. under ICAI. Ext. 'm' is his B.Com. examination mark-sheet. Ext. 'n' is his C.A. Foundation course mark-sheet. Ext. 'o' is his C.A. IPC/ATE examination mark-sheet. Ext. 'p', Ext. 'q' and Ext. 'r' are his achievement certificates. The name of his wife is Smt. Kamla Devi. She had met with an accident in the year 2004 and since then, she is mentally unstable. She has been regularly taking treatment for the same. Ext. 's', series (sixteen sheets) are her medical documents. He has a motorcycle, the registration No. being AS-01-BT-6977. He keeps the documents of the motorcycle inside the motorcycle. He has brought the certificate of insurance of the motorcycle. Ext. 't', is the said certificate of insurance. In his absence, his son Gobind Kumar Singhal and daughter Bhawani Singhal looks after his business. As his wife cannot stay alone in the house, his son looks after his wife and also his business establishment situated at Fatasil Ambari. When they go out from their house, they leave the key in a place near a window outside the house. On the day of occurrence, he had been to Siliguri, West Bengal. On the next day, at around 02:00 pm, he returned to Guwahati. When he goes from his house, he takes the key of his motorcycle with him. On the day of the occurrence also, he took the key of the motorcycle with him. Nobody can drive his motorcycle without the key. He knew the deceased Sweta Agarwal. She used to visit his house frequently. He knows the mobile number of the deceased Sweta

Agarwal. Her mobile number was 9954030131. She had an account in Hike messenger app. He has downloaded the status of the deceased Sweta Agarwal of her Hike messenger app of October, 2017 (under objection as the document is a private document). Ext. "u" and Ext. "v" (under objection) are the said status reports. He has written a letter, through his advocate, to the Hike Company to provide him with the hard copy of the Ext. "u" and Ext. "v". Ext. 'w' is the said letter written by his advocate to the Hike Company. But, they did not furnish him any reply. His wife, daughter and son have been falsely implicated in this case. The deceased victim Sweta Agarwal has committed suicide and his wife, daughter and son have been falsely implicated for causing her death.

107. In the cross-examination, he has stated that, he has a business in Siliguri also. The name of his shop in Siliguri is "Kehsab Agency". The name of his company in Guwahati is "Ma Bhawani Product". He has denied the suggestion that the CID has filed a case against him under Section 420 IPC for violation of Trademark. He has denied the suggestion that the said case is pending in the Court of the learned Additional Chief Judicial Magistrate, Kamrup (M), Guwahati (under objection). He has denied the suggestion that in the said case, he has appeared before the Court of the learned Additional Chief Judicial Magistrate, Kamrup (M), Guwahati and has taken bail. He does not know if after the incident on 04.12.2017, the police arrested his wife, daughter and son. He does not know if in connection with this case, the police have arrested his wife, daughter and son. He can identify the handwritings of his wife, daughter and son. He cannot say whether the signature in the Ext. 'i' petition dated 05.12.2017, filed in the Court of the learned Judicial Magistrate First Class, Kamrup (M), Guwahati is of his son Gobind Kumar Singhal or not. He has denied the suggestion that he has deposed falsely. He has denied the suggestion that when he goes out, he leaves the key of his motorcycle with his son Gobind Kumar Singhal. He has denied the suggestion that the police could not recover the mobile phone of the deceased as they had concealed her mobile handset and misused her mobile. On the last Sunday, he has written the letter through his advocate to the Hike Company. He cannot say whether the deceased Sweta Agarwal used to call his son Gobind Kumar Singhal as

“brother” but, she was his friend and used to come to his house. The deceased Sweta Agarwal was of his son Gobind Kumar Singhal’s height. He has denied the suggestion that the height of the deceased Sweta Agarwal was about five feet. As his son Gobind Kumar Singhal called the deceased Sweta Agarwal from his mobile phone and saved her mobile number in his phone hence, he remembers the mobile number of the deceased Sweta Agarwal. His wife Kamla Devi Singhal and daughter Bhawani Singhal had filed a bail petition before the Hon’ble Gauhati High Court. The bail petition was drafted by the lawyer engaged by him. In this case, till to date, he has not filed any petition under Section 358 Cr.P.C. He has denied the suggestion that his wife Kamla Devi Singhal had confessed before the public that she, his son and daughter had killed the deceased Sweta Agarwal. He has denied the suggestion that he has adduced false evidence to save his wife Kamla Devi Singhal, son Gobind Kumar Singhal and daughter Bhawani Singhal. He has denied the suggestion that after hearing and understanding the case of the prosecution, he has adduced false evidence and created a false case.

108. DW- 2 Smt. Harshita Verma, has deposed that she is a B.A., LL.B. She has been working as Senior Legal Counsel of M/s Hike Limited. She is not a technical expert. She has been authorized by Mr. Gautam Vohra, Company Secretary and General Counsel of M/s Hike Limited, to produce the data pertaining to Hike account registered with mobile No. 9954030131. She has brought the data pertaining to the Hike account registered with mobile No. 9954030131. Ext.-Y is the status update of Hike account registered with mobile No. 9954030131. If anything is deleted, the same has to be checked. Ext. –Y is the only active status of the Hike account registered with the mobile No. 9954030131 of Sweta Agarwal. She has brought the data for the period from October, 2017 to December, 2017 pertaining to mobile No. 9954030131 of Sweta Agarwal. She cannot say whether the Ext. u and v are Hike status of mobile No. 9954030131 and to confirm the same, the same has to be checked by the technical expert of the M/s Hike Limited.

109. In the cross-examination, she has stated that a Hike account of one

user may be assessed by another user through the Hike application, not through the web. One may use one's Hike account to upload any photograph. The symbol appearing in Ext. "u" and Ext. "v" marked as u (1) and v (1) appears to be of Wifi but, she cannot confirm the same. She cannot say whether the Ext. "u" and Ext. "v" were prepared without the SIM card in the mobile handset. The data in the Ext.-29 (under objection as not previously furnished to the accused) is similar to the data in the Ext.-Y that she has brought.

110. In re-examination, she has stated that Hike is an App. She cannot say whether without internet one can operate Hike account. Since she is not a technician, she is not competent to answer the said query. The same is technical matter. She has no knowledge of technology. She cannot say about the level of security of the Hike account but it is secured. Hike is 128 bit encrypted system. She does not know whether the Ext. 29 is a screen shot or colored print out or colored Xerox copy or manufactured.

111. DW- 3 Shri Aditya Gupta has deposed that he has been working as the Director, Engineering, in the Hike Private Limited. He has brought a letter addressed to this court by the authorized signatory of Hike Private Limited stating that, "the data relating to deleted posts is not available with us. Further, we started storing the logs for deleted data only from March, 2018 onwards." The Hike Private Limited has started storing record of deleted status updates from March, 2018 onwards. The Hike Private Limited was originally incorporated as Messngrco Pvt. Limited and has been converted into a private limited company as per the Companies Act 2013 and the Central Government accorded approval vide SRN G39040274 dated 30.03.2017. He has brought an affidavit cum certificate issued under Section 65-B of the Evidence Act. The logo in the Ext. "u" and Ext. "v" are of Hike Private Limited. The contents of the Ext. U and V looks like that of Hike Private Limited. The Hike Account of an individual cannot be accessed by another individual unless that individual produce the One Time Password sent to the individual in his/her mobile number. The Hike account of Sweta Agarwala is still active. A Hike account

cannot be used without internet connection but, one can see the already stored messages while having internet connection. Hike Private Limited does not have logs of deleted status updates prior to March, 2018. Those status which have been already deleted are not mentioned in the letter he has brought. Only the active status updates are available with them. Ext.-Z is the aforesaid letter dated 20.05.2019. Ext. Z(i) is the certificate of Hike Private Limited issued under the Companies Act. Ext. Z(ii) is the letter of authorization issued to him. Ext. Z(iii) is the affidavit-cum-certificate issued under Section 65-B of the Evidence Act. The Ext. 29 appears to be of Hike Private Limited but, there is no logo of Hike Private Limited. There is every possibility of manufacturing it. The Ext. 29 is not issued by the Hike Private Limited.

112. In the cross-examination, he has stated that the summons was issued in respect of Hike Account of "Sweta Agarwal". But, Ext. "u" and Ext. "v" enclosed with the summons shows the name as one "Shweta" and the photographs in the Ext. "u" and Ext. "v" are hazy. The status postings in the Ext. "u" and Ext. "v" do not contain any date. In the Ext. Z date is mentioned. The contents of Ext. "u" and Ext. "v" are not available in their database as they store only active status updates. The contents of the Ext. U and V are screen shots. He cannot say whether the Ext. "u" and Ext. "v" are forged and fabricated documents. He has no knowledge about the client site of the fonts used in the Hike App. Ext. "u" and Ext. "v" shows that the Wifi was connected but, he cannot say whether internet was accessed or not. The Ext. "u" and Ext. "v" shows that the mobile handset was of dual SIM. It also shows that one SIM card was not loaded. The OTP will go to the mobile handset having SIM card. Ext. 29 is a computer print out. He has brought the Ext. 30 along with Ext. Z. The contents of Ext. 29 and Ext. 30 are same. He cannot say whether the contents of the Ext. "u" and Ext. "v" ever existed in their server. Had the Ext. "u" and Ext. "v" been active in the server, then the same would have contained time and date.

113. In re-examination, he has stated that only the contents of the Ext. 29 and Ext. 30 are same. As they have created the Ext. 30, it cannot match with

Ext. 29. He cannot say whether the names in the Ext. "u" and Ext. "v" are collected from the contact list or from Hike Account.

114. As can be seen from the testimonies of the defence witnesses, the defence has gone astray and has taken absurd and self-contradictory pleas. First, defence did not explain as to how the deceased died in the house of the accused persons. They suggested to the PW-1, who was examined on 14.05.2018 and to the PW-2, who was examined on 15.05.2018, that the deceased Sweta Agarwal died due to burn injuries and that the accused Gobind Singhal had love affair with the deceased. But, they did not put forward any explanation that if the deceased had love affair with the accused Gobind Singhal, then why she had committed suicide in his house by setting herself on fire? Thereafter, to improve their case, when the prosecution examined the mother of the deceased namely, Sunita Agarwal (the PW-7) on 12.06.2018, the defence suggested to her that the deceased Sweta Agarwal had love affairs with the accused Gobind Singhal and she wanted to marry him. But, as the accused Gobind Singhal was not ready to marry her, she committed suicide. But, thereafter, the defence changed track and in their examination under section 313 Cr.P.C., they have tried to prove that the deceased was a psychopath and made an abortive attempt to prove the same from the status updates of the deceased's Hike App. They have also exhibited the alleged status update of the deceased's Hike account as Ext. "u" and Ext. "v", which they have failed to prove by any standard, as can be seen from the testimonies of the DW-2 Harshita Verma and DW-3 Aditya Gupta discussed above. Further, the PW-3 has categorically stated in the cross-examination that had the Ext. "u" and Ext. "v" been active in the server, then the same would have contained the time and date. The father of the accused Gobind Singhal and Bhabani Singhal and husband of the accused Kamala Devi Singhal namely, Radheshyam Singhal examined himself as DW-1 to prove the same and examined the DW-2 Harshita Verma and DW-3 Aditya Gupta to prove the Ext. "u" and Ext. "v". But, DW-2 Harshita Verma and DW-3 Aditya Gupta have categorically stated that though, the Ext. "u" and Ext. "v" appears to be of hike account, they cannot confirm the same. Therefore, it cannot be held that Ext. "u" and Ext. "v" were the hike

status updates of the deceased Sweta Agarwal. It is crystal clear from the above that the accused manufactured the Ext. "u" and Ext. "v" for the purpose of defence which, they have miserably failed to prove. Further, if the accused knew that the deceased Sweta Agarwal was a psychopath, then they should have suggested the same to the PW-1, PW-2 and PW-7 as they being the parents and uncle of the deceased, were the best persons to know about the same. But, the defence did not suggest the same to them. The said allegations show the sadist character of the accused persons. The deceased Sweta Agarwal could never be a psychopath. How could the accused term an exceptionally brilliant student like the deceased Sweta Agarwal, who stood First in the Higher Secondary Examination, a psychopath in the fag end of the trial, without adducing any medical evidence and contradicting their earlier defence that the deceased Sweta Agarwal had love affairs with the accused Gobind Singhal and wanted to marry him but, as the accused Gobind Singhal was not ready to marry her, she committed suicide? By taking the defence that the deceased Sweta Agarwal was a psychopath, the accused and the DW-1 Radheshyam Singhal have maligned and defamed the deceased Sweta Agarwal and for the same, the parents of the deceased Sweta Agarwal (the PW-2 and PW-7) may prosecute them for defaming their deceased daughter, who was an exceptionally brilliant student, as the allegations are baseless and defamatory.

115. Further, as can be seen from the testimonies of the prosecution witnesses, the accused assaulted the deceased Sweta Agarwal by blunt object as the PW-9, PW-10 and PW-11 found injuries on the dead body caused by blunt force impact during post-mortem examination. The accused also stabbed the deceased Sweta Agarwal by means of light sharp cutting weapon and inflicted the incised injury in the neck and other incised injuries as found by the PW-9, PW-10 and PW-11. The accused also tried to strangulate the deceased as the PW-9, PW-10 and PW-11 found ligature mark on her neck. Thereafter, the accused Gobind Singhal took the dead body in the motorcycle in a sack for dumping somewhere, as deposed by the PW-5 and PW-20. Thereafter, he brought back the dead body to their house as per the advice of the co-accused. Thereafter, the accused wiped the floor of the house and removed the blood

staines and took the deadbody to the toilet. There, the accused set the deceased on fire by pouring kerosene oil and therefore, the PW-9, PW-10 and PW-11 found the ante-mortem and post-mortem burn injuries covering 40 to 50 per cent of the body surface area of the deceased. But, in the meantime, Sweta Agarwal had died due to the incised wound caused in the neck as the PW-9, PW-10 and PW-11 have deposed that the death was due to hemorrhage and shock following incised injury sustained over the neck which was caused by sharp cutting weapon and was homicidal in nature.

116. In the case of **State Govt. of NCT of Delhi vs. Sunil and another, reported in (2001) CriLJ 504**, the Hon'ble Supreme Court observed as follows:

"It is an archaic notion that actions of the police officer should be viewed with initial distrust. At any rate, the court cannot begin with the presumption that police records are untrustworthy. As a proposition of law the presumption should be the other way around..."

117. The manner of commission of murder of the deceased Sweta Agarwal was extremely brutal, grotesque, diabolical, revolting and was perpetrated in a dastardly manner, which has aroused intense and extreme indignation of the people of the State. The murder of the deceased Sweta Agarwal was extensively covered by the electronic and print media of the State and the country of which any court of Assam can take judicial notice. PW-16 Utpal Medhi has deposed that on 07.12.2017, about fifteen/ twenty persons, including eight/nine Police personnel and media persons, entered into the house of the accused persons. Therefore, even after three days' of the incident, the media was pursuing the investigation of the case. Defence did not challenge the PW-16 in the cross-examination that the media persons were not present on that date or that they did not enter into the room of the accused persons. Therefore, the testimony of the the PW-16 must be accepted to be true and he has proved that the media was extensively covering the case. The deceased Sweta Agarwal was subjected to inhuman acts of torture and cruelty in order to bring about her death. The accused assaulted the deceased Sweta Agarwal by

means of blunt object. They also inflicted several incised wounds, including the incised injury over the neck that ultimately caused her death and the accused Gobind Singhal also attempted to dump the dead body somewhere as deposed by the PW-5 and PW-20 but, brought back the dead body to their house as per the advice of the co-accused and set her ablaze pouring kerosene oil and caused the burn injuries covering 40 to 50 per cent of the body surface area, while she was still alive to conceal the act of murder. But, ultimately, as they say, the truth came out.

118. Further, the manner in which the accused persons committed the murder of the deceased Sweta Agarwal can only be termed as inhuman as only the so-called human being like the accused can commit the murder of an innocent girl in that manner and thereafter, try to conceal the murder first, by dumping the body in an isolated place and thereafter, bringing back the body to their home and setting the body on fire to conceal the act of murder by making the murder look like suicide and brandishing the hapless Sweta Agarwal as a psychopath. All man of common prudence can take judicial notice of the fact that a girl who stood first in the Higher Secondary Examination (Commerce Stream), conducted by the Assam Higher Secondary Education Council, cannot be a psychopath, whatever else she may be. Further, except making the futile attempt to prove that the deceased was a psychopath by exhibiting some purported status update screen shots of some mobile phone, which may be the screen shots of any mobile phone and can be manufactured even today and alleging the same to be the status update of the deceased victim, which they have miserably failed to prove. The accused could not adduce any evidence to make their plea believable within the ambit of preponderance of probability.

119. Failing to shake the prosecution case, the learned counsel for the accused vehemently argued that as in the instant case, there are contradictions about the injuries in the post-mortem report and inquest report, it cannot be held that the post-mortem report is correct and the inquest report is false. Therefore, the learned counsel for the accused has submitted that the accused are entitled to get the benefit of doubt.

120. In the case of **Sharad Birdhichand Sarda v. State of Maharashtra, reported in AIR 1984 SC 1622**, the Hon'ble Supreme Court has held as follows:-

"It is well settled that where on the evidence, two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an accused, the accused is undoubtedly entitled to the benefit of doubt."

121. But, as can be seen from the discussion made above, in the instant case, there are no two possibilities and the prosecution has proved beyond all reasonable doubt that the accused had brutally murdered the deceased Sweta Agarwal. Therefore, the contention of the learned counsel for the accused is liable to be rejected.

122. The learned counsel for the accused further argued even assuming while denying that the dead body of the deceased Sweta Agarwal was recovered from the house of the accused persons at around 06:00 P.M. and thereafter, the police shifted the dead body to the Bharalumukh Police Station and the F.I.R. was lodged on the same day. In the F.I.R., the informant has stated that the accused Gobind Singhal had committed rape on the deceased Sweta Agarwal and thereafter, brutally murdered her with the help of the accused Kamla Devi Singhal and Bhabani Singhal and the Bharalumukh Police has registered the case under sections 376, 120-B, 302 I.P.C. but, submitted the charge-sheet under sections 120-B, 302, 201 I.P.C. against the accused persons. Therefore, the learned counsel for the accused has submitted that the police has manufactured the case and has submitted a concocted charge-sheet against the accused persons and hence, the accused persons deserved to be acquitted giving them the benefit of the doubt.

123. The argument of the learned counsel for the accused sounded bizarre and farfetched. Because, though the F.I.R. was lodged alleging that the accused Gobind Singhal had committed rape on the deceased Sweta Agarwal and thereafter, brutally murdered her by hatching a conspiracy with the co-accused Kamla Devi Singhal and Bhabani Singhal, the informant is not an eye

witness of the incident and therefore, as he saw the dead body of the deceased Sweta Agarwal in the toilet of the accused persons lying in half-naked condition (the photograph of the deceased Sweta Agarwal taken in the bathroom of the accused persons and enclosed with the Ext. 26 sketch map also proves the same), he thought and anybody would, under the said circumstances, have thought that the accused Gobind Singhal had committed rape on the deceased Sweta Agarwal and thereafter, brutally murdered her by hatching a conspiracy with the co-accused Kamla Devi Singhal and Bhabani Singhal. But, for the same, the prosecution case cannot be rejected or treated to be doubtful as in the facts and circumstances of the case, the F.I.R. was lodged after the recovery of the dead body of the deceased Sweta Agarwal in the bathroom of the accused persons and after receiving the information about her death from the accused Kamla Devi Singhal, the informant and the parents of the deceased Sweta Agarwal went to the residence of the accused persons and there, they saw the dead body in half-naked condition and thereafter, the informant lodged the F.I.R. presuming the same to be a case of rape and murder. But, the same has not caused any prejudice to the accused persons in their defence as by that time; the Bharalumukh Police has started investigation. Therefore, the charge-sheet cannot be termed to be not in conformity with the FIR. The case remained a murder case as stated in the FIR and the investigation culminated with the submission of the charge-sheet stating the case as a pre-planned, cold-blooded murder under a conspiracy and removing the evidence of murder.

124. In the case of **Prabhu Dayal vs The State Of Rajasthan, reported in (2018) 8 scc 127**, the Hon'ble Supreme Court has held as follows:-

It is settled law that the FIR need not contain an exhaustive account of the incident. This Court in Om Prakash v. State of Uttaranchal, (2003) 1 SCC 648, observed as follows:

"10. ...It is axiomatic that the FIR need not contain an exhaustive account of the incident. It is to be noted that the report was given to the police

within one-and-a-half hours after the incident. PW 8, a known person, had drafted the report that she dictated. She had given all essential and relevant details of the incident naming the accused as culprit.

We cannot expect a person injured and overtaken by grief to give better particulars. The possibility of PW 1 inventing a story at that juncture trying to implicate the accused is absolutely ruled out. The contents of the FIR, broadly and in material particulars, conform to the version given by PW 1 in her deposition...”

125. In view of the above, for mentioning the case as rape and murder in the FIR, it cannot be held that the prosecution case is manufactured and hence, is liable to be rejected. Therefore, the contention of the learned counsel for the accused is rejected.

126. The learned counsel for the accused further argued that as the medical officers who had performed the post-mortem examination on the body of the deceased Sweta Agarwal opined that the Rigor Mortis was fully developed and the time since death was 12-24 hours approximately, the deceased must have died after the body was taken from the house of the accused persons to the Bharalumukh Police Station as Rigor Mortis lasts for about nine hours and hence, the medical officers who had performed the post-mortem examination on the body of the deceased Sweta Agarwal would not have found Rigor Mortis fully developed at the time of performing the post-mortem examination. The contention of the learned counsel for the accused is liable to be rejected as in Modi's Medical Jurisprudence and Toxicology, 23rd Edition, 2005, page No. 432, it is stated that the time of onset of Rigor Mortis varies greatly in different cases, but the average period of its onset may be regarded as three to six hours after death in temperate climates, and it may take two to three hours to develop. In India, it usually commences in one to two hours after death. It is further stated that in temperate regions, Rigor Mortis usually lasts for two to three days. In northern India, the usual duration of Rigor Mortis is 24 to 48 hours in winter and 18 to 36 hours in summer.

127. Therefore, as the death of the deceased Sweta Agarwal was caused in the winter season in the state of Assam, the usual duration of Rigor Mortis will be 24-48 hours. Therefore, if the Rigor Mortis found fully developed at the time of post-mortem examination, the same proves the prosecution case that the death was caused at the time as stated by the prosecution and not as claimed by the learned counsel for the accused.

128. Further, though there cannot be any doubt that the death of the deceased was caused by the cut wound on the neck, even assuming while denying that the deceased Sweta Agarwal committed suicide in the house of the accused persons, in presence of all the accused persons, by pouring kerosene oil on herself body and setting her ablaze as the accused Gobind Singhal was not ready to marry her, then why the accused did not try to douse the fire? Why the accused remained silent spectators to the burning of the deceased Sweta Agarwal in their house till her death? Admittedly, in the building where the accused were residing, many other families were also residing. Therefore, why the accused did not make a hue and cry and tried to extinguish the fire does not make any sense. These proves beyond an iota of doubt that the accused had committed murder of Sweta Agarwal by inflicting the incised injury in the neck as deposed by the Medical Officers and later on, to conceal the act of murder, had set the body on fire.

129. The learned counsel for the accused further argued that as in the post-mortem report, the Medical Officers have stated that the deceased died within 12-24 hours before the post-mortem examination, it cannot be held that the deceased died in the house of the accused persons. The learned counsel for the accused argued that as the dead body was recovered from the house of the accused persons at around 06:00 pm, on 04.12.2017, therefore, relying on the post-mortem report, if it is held that the deceased died within 12 hours before the post-mortem examination, then the deceased died at around 02:20 A.M. as the post-mortem examination was conducted at around 02:20 A.M., on 05.12.2018, that is about eight hours after the body was recovered from the house of the accused persons. Therefore, the learned counsel for the accused has

submitted that when the body of the deceased Sweta Agarwal was taken away from the house of the accused persons by the police, she was alive and had she been provided with necessary treatment, she would have been alive.

130. The learned Counsel for the accused further argued that as in the post-mortem report, the Medical Officers have stated that the dead body was cold externally and warm internally at the time of conducting the post-mortem examination and as the death allegedly occurred at around 06:00 pm, on 04.12. 2017, and the post-mortem examination was conducted on 05.12. 2017, at 02:20 pm, i.e., after about 20 hours of the death, the deceased did not die in the house of the accused persons as in that event, the doctors who had conducted the post-mortem-examination would not have found the body warm internally. According to the learned counsel for the accused the body remains warm after death at the most for six hours and to prove the same, the learned counsel for the accused has relied upon an online article, which I do not think it proper to discuss here. Because, according to Modi's Medical Jurisprudence and Toxicology, 23rd Edition, 2005, page Nos. 425, 426, the whole surface of the body takes about 12 hours and the internal organs takes 20 to 24 hours to reach the temperature of the environment, but much less time in a tropical country like India. Therefore, in the instant case, if at the time of conducting post-mortem examination, the doctors found the dead body externally cool and internally warm, then the prosecution case that the deceased was murdered by the accused persons in their house in between 03:30 pm to 06:00 pm has to be accepted to be true and in the facts and circumstances of the case, the same must be accepted to be true, as the post-mortem-examination was conducted at 02:20 pm, on 05.12. 2017, i.e., after about 20 hours of the death, the findings of the doctors are true. Further, as the deceased Sweta Agarwal was a young girl; hence, in her case, the cooling will be slow as according to Modi's Medical Jurisprudence and Toxicology, 23rd Edition, 2005, page No. 426, it is stated that, the bodies of a young and middle-age persons, who have a relatively bigger size, cool more slowly than the bodies of children and old people."

131. Further, as according to Modi's Medical Jurisprudence and Toxicology, 23rd Edition, 2005, page No. 426, when the death has resulted from asphyxia as in hanging, lightning, suffocation or poisoning by carbon dioxide, the body remains warm for a longer time. In the instant case, the deceased Sweta Agarwal was killed inflicting incised injury and thereafter, the body was set on fire and thereafter, the police shifted the dead body to the Bharalumukh Police Station and kept inside a dead body carrying van till the body was dispatched for post-mortem examination to the GMCH after conducting the inquest on 05.12. 2017. Therefore, in the case in hand, the body would have remained warm for longer period. The Magistrate who had conducted the inquest on the dead body has deposed that he had conducted the inquest inside the dead body carrying van at the Bharalumukh Police Station and thereafter, the body was shifted to the GMCH for post-mortem examination. Therefore, in the instant case, had the post-mortem examination not conducted at 02:20 pm, on 05.12.2017, but conducted after few more hours, then also perhaps, the doctors would have found the body externally cool and warm internally.

132. It is worth mentioning here that the PW-10 Dr. Himangshu Das, who had conducted the post-mortem examination along with the PW-9 and PW-11, has categorically stated in the cross-examination that they did the post-mortem examination as per the procedure laid down in the Medical Jurisprudence by Modi. The book is recognized as the standard textbook in forensic medicine throughout India.

133. In view of the above, the contention of the learned counsel for the accused is not based on medical jurisprudence and hence, the same is rejected.

134. The learned counsel for the accused further argued that as the police had shifted the dead body from the house of the accused persons to the Bharalumukh Police Station though, the accused had called an 108 Ambulance and told the police that the deceased was breathing and she should be shifted to the hospital but, the police did not do so. The deceased did not die in the house of the accused persons and the police or the members of the family of the deceased might have killed her as she had committed suicide, may be as

honour killing. This argument sounded bizarre. Why the police or the members of the family of the deceased would kill the deceased? What honour the members of the family of the deceased had lost due to any omission or commission of the deceased for which, they would kill her to protect the honour of their family? It is not the case of the deceased having love affair or marrying a person of a different religion. The deceased, at the most, had love affair with the accused Gobind Singhal, who belong to the same religion. Hence, the question of honour killing does not arise and the argument sounded bizarre, to say the least. If one has to presume the same, then one may also presume that it may be the case of the accused killing the deceased for dowry as the deceased belonged to a poor family and the accused are rich, compared to the family of the deceased as the father of the deceased works in a private printing press whereas the accused have insence stick manufacturing industry in Guwahati and also business establishment in Siliguri. Therefore, the the accused must have thought that if the accused Gobind Singhal marry the deceased Sweta Agarwal, they will not receive sufficient dowry as the father of the deceased Sweta Agarwal is not a rich man and for the same, the accused might have killed the deceased.

135. In the case of **Bhagwan Dass vs State (Nct) Of Delhi, reported in (2011) 6 SCC 396**, the Hon'ble Supreme Court of India has observed about honour killing as follows:-

“In our opinion honour killings, for whatever reason, come within the category of rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilized behaviour. All persons who are planning to perpetrate `honour' killings should know that the gallows await them.”

136. As the instant case is a clear case of pre-planned murder, the aforesaid observation may be applicable to accused as they seem to have murdered the deceased Sweta Agarwal apprehending that if the accused Gobind Singhal had to marry the deceased Sweta Agarwal, they will not

receive sufficient dowry as the father of the deceased Sweta is not a rich man. This I am stating here as the learned counsel for the accused has taken the absurd plea of honour killing.

137. Further, the allegations amount to adding insult to the injury to the members of the family of the deceased Sweta Agarwal and defaming and maligning the deceased, who seems to have paid the ultimate price for her petulance of loving a criminal, who was no match to her and who belonged to a family of criminal antecedent. By cross-examining the DW-1, the prosecution has proved that a criminal case is pending against him. The prosecution has submitted the certified copies of the case pending in the court of the learned Additional Chief judicial Magistrate, Kamrup (M), Guwahati against the DW-1. The DW-1 is a damn liar as he did not depose that he has business establishment in Siliguri but, the prosecution proved the same by cross-examining him. Further, in the cross-examination, the DW-1 has stated that he does not know if after the incident on 04.12.2017, the police had arrested his wife, daughter and son. He also does not know if in connection with this case, the police had arrested his wife, daughter and son. The DW-1 has also stated in the cross-examination that his wife Kamla Devi Singhal and daughter Bhawani Singhal had filed a bail petition before the Hon'ble Gauhati High Court and the bail petition was drafted by the lawyer engaged by him. Therefore, the DW-1 is a damn liar as his not knowing that in connection with this case, the police had arrested his wife, daughter and son does not arise. Therefore, the members of the family of the deceased Sweta Agarwal may prosecute the accused and the DW-1 for making the wild, baseless and defamatory allegations against them and the deceased Sweta Agarwal.

138. It is true that the investigating officer is not a medical officer and he should have taken the dead body to the hospital. But, that the deceased died in the house of the accused persons will admit of no doubt as hearing about the death of the deceased, people rushed to the house of the accused persons and as the people were about to lynch the accused Gobind Singhal, the investigating officer was left with no alternative but to shift all the accused

persons and the dead body to the Bharalumukh Police Station. Further, as has been discussed above, hearing the news of murder, the media and the public reached the house of the accused persons and the media was extensively covering the incident and was showing the picture of the dead body of the deceased and the accused persons. Further, anybody can decipher from the photograph of the body taken by the investigating officer and enclosed with the Ext. 26 sketch map that, the photograph is of a dead person and not of a living person. Further, in the facts and circumstances of the case, initially the common people and the informant thought that the accused Gobind Singhal had committed rape on the deceased Sweta Agarwal and thereafter, committed her murder. Therefore, the common people were so outraged and anguished at the brutality of the murder of the exceptionally brilliant and innocent student Sweta Agarwal that they might have lynched the accused Gobind Singhal had the investigating officer not shifted all the accused persons and the dead body to the Bharalumukh Police Station.

139. It is crystal clear from the discussion made above that the accused Gobind Singhal, Smt. Kamala Devi Singhal and Smt. Bhabani Singhal had committed the murder of the deceased Sweta Agarwal hatching a conspiracy from long ago as they had kept ready the kerosene oil and other articles used in committing the murder ready in their house though, they did not use kerosene oil in their house and the deceased Sweta Agarwal died due to the incised injury sustained in the neck, which was homicidal in nature and thereafter, the accused set the body on fire to conceal the act of murder.

140. In the case of **YAKUB ABDUL RAZAK MEMON Vs. STATE OF MAHARASHTRA STATE OF MAHARASHTRA Vs. YAKUB ABDUL RAZAK MEMON AND OTHERS, reported in (2013) 4 SCALE 565**, the Hon'ble Supreme Court held as follows:-

"3. Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.

6. It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.

64. The offence u/s 120B is a crime between the parties to do a particular act. Association or relation to lead conspiracy is not enough to establish the intention to kill the deceased. To make it clear, to bring home the charge of conspiracy within the ambit of Section 120B, it is necessary to establish that there was an agreement between the parties for doing an unlawful act. It is difficult to establish conspiracy by direct evidence.

65. Since conspiracy is hatched in secrecy, to bring home the charge of conspiracy, it is relevant to decide conclusively the object behind it from the charges leveled against the accused and the facts of the Case. The object behind it is the ultimate aim of the conspiracy. Further, many means might have been adopted to achieve this ultimate object. The means may even constitute different offences by themselves, but as long as they are adopted to achieve the ultimate object of the conspiracy, they are also acts of conspiracy.

141. In the case of **Yash Pal Mittal Vs. State of Punjab, reported in AIR 1977 SC 2433, (1977) 4 SCC 540**, the Hon'ble Supreme Court held as follows:-

"68. For an offence u/s 120B Indian Penal Code, the prosecution need not necessarily prove that the conspirators expressly agreed to do or cause to be done the illegal act, the agreement may be proved by necessary implication. It is not necessary that each member of the conspiracy must know all the details of the conspiracy. The offence can be proved largely from the inferences drawn from the acts or illegal omission committed by the conspirators in pursuance of a common design. Being a continuing offence, if any acts or omissions which constitute an offence are done in India or outside its territory, the conspirators continuing to be the parties to the conspiracy and

since part of the acts were done in India, they would obviate the need to obtain the sanction of the Central Government. All of them need not be present in India nor continue to remain in India. The entire agreement must be viewed as a whole and it has to be ascertained as to what in fact the conspirators intended to do or the object they wanted to achieve. (Vide: R.K. Dalmia Vs. Delhi Administration, Lennart Schussler and Another Vs. The Director of Enforcement and Another, Shivnarayan Laxminarayan Joshi and Others Vs. State of Maharashtra, and Mohammad Usman Mohammad Hussain Maniyar and Others Vs. State of Maharashtra)."

142. In the instant case, even assuming while denying that initially, the accused Smt. Kamala Devi Singhal and Smt. Bhabani Singhal were not part of the conspiracy hatched by the accused Gobind Singhal to commit the murder of the deceased Sweta Agarwal, as they burnt the body of the deceased Sweta Agarwal in their house and tried to misled the members of the family of the deceased Sweta Agarwal and the police giving false information that of the deceased Sweta Agarwal had committed suicide in their house, the accused Smt. Kamala Devi Singhal and Smt. Bhabani Singhal had joined the conspiracy. Otherwise, they would have told the truth. Further, all the accused were trying the misled the court also by adducing false evidence that the deceased was a psychopath and manufactured some non-existent status update of Hike account as discussed above.

143. The learned counsel for the accused cited several judgments to prove that the deceased Sweta Agarwal committed suicide in the house of the accused persons by setting herself ablaze pouring kerosene oil and therefore, the accused should be honourably acquitted. But, in view of the discussion made above, as it has been held that under a conspiracy, the accused had brutally murdered the deceased Sweta Agarwal and tried to to conceal the act of murder by setting the body ablaze while she was still alive and caused forty to fifty per cent burn injuries covering body surface area, I do not think it necessary to discuss the judgments cited by the learned counsel for the accused. The facts and circumstances of none of the judgments cited by the learned counsel for the accused are similar to the facts and circumstances of

the case in our hand. Therefore, I do not think it necessary to explain and distinguish the judgments cited by the learned counsel for the accused for the sake of brevity.

144. Further, the learned counsel for the accused also cited several judgments treating the instant case as a case of suicide which, in view of the discussion made above, I do not think necessary to discuss as the instant case is a case of pre-planned, cold-blooded, brutal murder. The learned counsel for the accused also cited several judgments according to which, for the alleged lapses on the part of the investigating officer as can be seen from his testimony discussed above, the accused are entitled to get the benefit of the doubt which, I again do not think necessary to discuss as the prosecution has been able to prove beyond all reasonable doubt that the instant case is a case of pre-planned, cold-blooded, brutal murder. The learned counsel for the accused has also cited several judgments according to which, if from the evidence on record, two views emerge; the view that favours the accused shall be adopted. This contention of the learned counsel for the accused has already been discussed and is true. But, the instant case is a case of pre-planned, cold-blooded, brutal murder and there cannot be any other possibility regarding the death of the deceased Sweta Agarwal. Therefore, in the instant case, the question of taking a view favourable to the accused does not arise. In view of the above, I do not think it necessary to discuss and distinguish the judgments relied upon by the learned counsel for the accused persons.

145. Further, relying upon the case of **Rina Hazarika vs. State of Assam, decided on October 31, 2008**, wherein for not considering the submission recorded under Section 313 Cr.P.C. in convicting the accused for murder, the Hon'ble Supreme Court has set aside the conviction on the ground that the defence was not irrelevant, illegal or fanciful in the entirety of the facts and the nature of the other evidences available and discussed in the case and acquitted the accused/ appellant giving her the benefit of doubt. But, in the instant case, the same will go against the accused persons as in his examination under Section 313 Cr.P.C., the accused Gobind Singhal has

admitted that the deceased had cut wound and burn injuries on her body while her dead body was taken out from their house by the police. But, he did not explain the same and has simply stated that he could not say how the deceased sustained the said cut wound and burn injury on the body. Further, as has been discussed earlier, in the instant case, the defence is self-contradictory. Therefore, in the instant case, relying on the case of **Reena Hazarika** (supra), the accused must be held guilty of committing the murder of the deceased Sweta Agarwal hatching a criminal conspiracy.

146. The learned counsel for the accused further argued that the accused Smt. Kamala Devi Singhal has met with an accident and since then, she is not mentally stable. Therefore, the learned counsel for the accused has argued that the accused Smt. Kamala Devi Singhal deserved to be acquitted in this count alone. The learned counsel has relied upon the case of **Hari Singh Gond v. State of M.P., reported in 2008, AIR SCW 6882** to establish the same.

147. But, in the instant case, the defence did not examine any Medical Officer to prove that the accused Smt. Kamala Devi Singhal is of unsound mind. The DW-1 has exhibited some medical documents of the accused Smt. Kamala Devi Singhal as "s" series (sixteen sheets). But, from the exhibit "s" series documents, it cannot be held that at the time of commission of the alleged offence, the accused Smt. Kamala Devi Singhal was of unsound mind. Further, this argument amount to admission by the defence that the accused had committed the murder of the deceased Sweta Agarwal and hence, sought acquittal of the accused Smt. Kamala Devi Singhal on the ground that at the time of commission of murder, she was of unsound mind.

148. It is settled law that the onus of proving unsoundness of mind is upon the accused.

149. But, in the instant case, except the exhibit "s" series documents, the defence did not adduce any other evidence or even tried to prove the exhibit "s" series documents by examining their authors. Therefore, based on the exhibit "s" series documents, it cannot be held that at the time of commission

of the alleged offence, or she was incapable of knowing the nature of the act of murder committed by them, or that she did not know either that the act was wrong or that it was contrary to law.

150. Further, the exhibit "s" series documents consists of one certificate of C.T. Scan Brain, which does not show any abnormality in brain, one is X-ray of right shoulder with clavicle (AP View), which states no significant abnormality seen in the study. Similar is two other certificates. One shows fracture in right elbow, another is an X-ray report, without any abnormality. One is a prescription issued by one Dr. Iran Bharali providing some medicines and advising to use Rib belt and to do deep breathing exercise, two other medical certificates issued by one Dr. Debeswar Das for some treatment, another medical certificates issued by one Dr. A.C. Bharali relating to some fracture, another medical certificate issued by Dr. Tulsi Bhattacharyya, Orthopedic Surgeon, advising to take C.T. Scan of brain, X-ray of shoulder joint, another medical certificate issued by one Dinesh Agarwal prescribing some medicines, another medical certificate issued by by Dr. Dinesh Agarwal prescribing to X-ray, another medical certificate issued by one Dr. B.K. Agarwal, who is an E.N.T. Specialist, prescribing some medicines. But, none of the medical certificates are issued by any neuro-psychiatrist or relating to any treatment of any mental illness. Therefore, by taking the plea of insanity relying upon the aforesaid judgment of the Hon'ble Supreme Court, the defence has admitted commission of murder of the deceased Sweta Agarwal by the accused persons as the accused Smt. Kamala Devi Singhal is claiming for benefit of the same as per the provisions of the Section 84 IPC. Therefore, the accused must be held guilty of committing the murder of the deceased Sweta Agarwal hatching a criminal conspiracy.

151. In the case of **Anda and Ors. Vs. The State of Rajasthan, reported in AIR 1966 SC 148, 1966 CriLJ 171**, the Hon'ble Supreme Court held as follows:-

"4. The offence of culpable homicide is defined by Section 299. It reads:

"299. Culpable Homicide.

Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits offence of culpable homicide."

The offence involves the doing of an act (which term includes illegal omissions) (a) with the intention of causing death or (b) with the intention of causing such bodily injury as is likely to cause death or (c) with the knowledge that the act is likely to cause death. If death is caused in any of these three circumstances, the offence of culpable homicide is said to be committed. The existence of the three circumstances (a), (b) and (c) distinguishes homicide which is culpable from homicides which are lesser offences or which are excusable altogether. Intent and knowledge in the ingredients of the section postulate the existence of a positive mental attitude and this mental condition is the special mens rea necessary for the offence. The guilty intention in the first two conditions contemplates the intended death of the person harmed or the intentional causing of an injury likely to cause his death. The knowledge in the third condition contemplates knowledge of the likelihood of the death of the person.

5. Section 300 tells us when the offence is murder and when it is culpable homicide not amounting to murder. Section 300 begins by setting out the circumstances when culpable homicide turns into murder which is punishable under Section 302 and the exceptions in the same section tell us when the offence is not murder but culpable homicide riot amounting to murder punishable under Section 304. Murder is an aggravated form of culpable homicide. The existence of one of four conditions turns culpable homicide into murder while the special exceptions reduce the offence of murder again to culpable homicide not amounting to murder. We are not concerned with the exceptions in this case and we need not refer to them. We now refer to the circumstances which turn culpable homicide into murder. They read:

"300. Murder.

Except in the cases hereinafter excepted culpable homicide is murder, if the act by which the death is caused is done with the intention of causing, death, or--

2ndly.-- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or--

3rdly.-- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or--

4thly.-- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid."

Taking the four clauses one by one we find that under the first clause of Section 300 culpable homicide is murder when the act by which death is caused is done with the intention of causing death. This clause reproduces the first part of Section 299. An intentional killing is always murder unless it comes within one of the special exceptions in Section 300. If an exception applies, it is culpable homicide not amounting to murder. It is the presence of a special exception in a given case which reduces the offence of murder to culpable homicide not amounting to murder when the act by which death is caused is done with the intention of causing death.

The third clause views the matter from a general stand point. It speaks of an intention to cause bodily injury which is sufficient in the ordinary course of nature to cause death. The emphasis here is on the sufficiency of the injury in the ordinary course of nature to cause death. The sufficiency is the high probability of death in the ordinary way of nature and when this exists and death ensues and the causing of such injury is intended the offence is murder. Sometimes the nature of the weapon used, sometimes the part of the body on which the injury is caused, and sometimes both are relevant. The determinant factor is the intentional injury which must be sufficient to cause death in the ordinary course of nature. If the intended injury cannot be said to be sufficient in the ordinary course of nature to cause death, that is to say, the probability of death is not so high, the offence does not fall within murder but within culpable

homicide not amounting to murder or something less. The illustration appended to the clause 3rdly reads:

"(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death."

The sufficiency of an intentional injury to cause death in the ordinary way of nature is the gist of the clause irrespective of an intention to cause death. Here again, the exceptions may bring down the offence to culpable homicide not amounting to murder.

152. The case in our hand, as can be seen from the discussion made above, is covered by all the four clauses of section 300 IPC. Because, as has already been discussed above, the accused had inflicted several incised injuries including the fatal injury in the neck of the deceased Sweta Agarwal and also set her on fire to conceal the act of murder. The said act of the accused can be attributed to their intention to cause such bodily injury to the deceased Sweta Agarwal, which they knew to be likely to cause her death and was sufficient, in the ordinary course of nature, to cause death and also caused her death in their house itself. Therefore, of the deceased Sweta Agarwal was neither a case of suicide nor a case of accident but, is a clear case of homicide.

153. In view of the above, as in the instant case, the accused brutally murdered the deceased Sweta Agarwal by intentionally causing her death inflicting the incised injury in the neck by means of sharp cutting instrument and thereafter, set the body on fire by pouring kerosene oil, which they had kept ready beforehand in their house, with intent to conceal the act of murder by portraying the murder as suicide, they must have done the same under a conspiracy hatched much earlier as the same cannot be done by one accused, had the other accused objected or not participated in the commission of the crime as in that event, the other accused could have easily prevented the one from committing the murder by raising a hue and cry. Therefore, all the accused must be held guilty of committing the murder of the deceased Sweta

Agarwal by intentionally causing her death, under a criminal conspiracy, which is an offence punishable under Section 120-B IPC. The point No.I is decided in the affirmative, accordingly.

POINT NO. II

154. Further, in view of the discussion made above, as the accused have brutally murdered the deceased Sweta Agarwal by intentionally causing her death hatching a criminal conspiracy from much before committing the murder. Therefore, they are guilty of committing the offence punishable under Section 302 IPC. The point No.II is also decided in the affirmative, accordingly.

POINT NO. III

155. Further, as can be seen from the discussion made above, after inflicting the fatal incised injury in the neck of the deceased Sweta Agarwal, the accused attempted to cause the evidence of murder to disappear first, by taking away the dead body from their house and dumping it somewhere, as can be seen from the testimonies of the PW-5 and the investigating officer (PW-20) and thereafter, bringing back the body to their house and setting it on fire by pouring kerosene oil while the deceased was still alive. Therefore, all the accused are guilty of causing the evidence of murder to disappear. Further, as admittedly, the accused gave wrong information to the PW-1, PW-7 and also to the police that the deceased Sweta Agarwal had committed suicide in their house by setting herself ablaze, which they knew to be false, with a view to screen them from the offence of murder, they are guilty of committing the offence punishable under Section 201 IPC. The point No.III is also decided in the affirmative, accordingly.

O R D E R

156. In the result, from the facts and circumstances of the case and

discussion made above, I hold that the prosecution has succeeded in bringing home the charges under sections 120-B, 302, 201 IPC against the accused Gobind Singhal, Kamala Devi Singhal and Bhabani Singhal beyond all reasonable doubt. Hence, I hold them guilty of committing offences punishable under sections 120-B, 302, 201 IPC and convict them under the said sections of law.

157. The Probation of Offenders Act is not applicable to a case under sections 120-B, 302, 201 IPC. Hence the convicts are not entitled to get the benefit of the ameliorative relief as envisaged under the said Act.

158. The sentence will be passed after hearing the convicts on the next following date.

159. The parents of the deceased Sweta Agarwal, namely PW-2 Shri Om Prakash Agarwal and PW-7 Smt. Sunita Agarwal, must have undergone unbearable pain and suffering for the brutal murder of their exceptionally brilliant daughter.

160. In the case of **MANOHAR SINGH Vs. STATE OF RAJASTHAN AIR, reported in (2015) 3 SCC 449**, the Hon'ble Supreme Court observed as follows:-

"Just compensation to the victim has to be fixed having regard to the medical and other expenses, pain and suffering, loss of earning and other relevant factors. While punishment to the accused is one aspect, determination of just compensation to the victim is the other. At times, evidence is not available in this regard. Some guess work in such a situation is inevitable. Compensation is payable Under Section 357 and 357-A. While Under Section 357, financial capacity of the accused has to be kept in mind, Section 357-A under which compensation comes out of State funds, has to be invoked to make up the requirement of just compensation."

161. In view of the above, in the instant case, the parents of the deceased Sweta Agarwal must have undergone unbearable pain and suffering

for the brutal murder of their daughter. Therefore, I deem it proper to award compensation to the parents of the deceased Sweta Agarwal under Section 357-A Cr.P.C. The Secretary, District Legal Services Authority, Kamrup (M), Guwahati is directed to pay compensation to the parents of the deceased Sweta Agarwal, namely PW-2 Om Prakash Agarwal and PW-7 Smt. Sunita Agarwal, if they are alive and not to anybody else, under the Victim Compensation Scheme formulated by the State Government for such cases.

162. Send a copy of the judgment to the Secretary, District Legal Services Authority, Guwahati, for payment of compensation to the parents of the deceased victim namely, PW-2 Om Prakash Agarwal and PW-7 Smt. Sunita Agarwal, if they are alive and not to anybody else.

163. Furnish copy of the judgment to the convicts free of cost, immediately.

164. Signed, sealed and delivered in the open Court on this the 30th day of July, 2019 in Guwahati.

Dictated and corrected by me:

(Shri A. Chakravarty)
Sessions Judge,
Kamrup (M), Guwahati.

(Shri A. Chakravarty)
Sessions Judge,
Kamrup (M), Guwahati.

APPENDIX

A. Prosecution Witnesses:

- 1.** PW-1 :- Shri Jagdish Agarwal
- 2.** PW-2 :- Shri Om Prakash Agarwal
- 3.** PW-3 :- Shri Dhananjay Roy
- 4.** PW-4 :- Shri Hemen Sarma
- 5.** PW-5 :- Shri Pankaj Kumar
- 6.** PW-6 :- Shri Pradip Khandelwal
- 7.** PW-7 :- Smt. Sunita Agarwal
- 8.** PW-8 :- Shri Vijay Kumar Agarwal
- 9.** PW-9 :- Dr. Raktim Pratim Tamuli
- 10.** PW-10:- Dr. Himangshu Das
- 11.** PW-11 :- Dr. Mrinal Haloi
- 12.** PW-12 :- Shri Sanjay Kumar Kabra
- 13.** PW-13 Shri Damodar Barman
- 14.** PW-14 :- Shri Ponjit Dowarah
- 15.** PW-15:- Shri Sankar Chandra Rabha
- 16.** PW-16 :- Shri Utpal Medhi
- 17.** PW-17 :- Dr. Rupali Bhattacharya

18. PW-18 :- Mr. Athang Singson

19. PW-19 :- Shri Bapukan Choudhury

20. PW-20:- SI Sudip Choudhury

B. Prosecution Exhibits:

1 . Ext-A:- Receipt of F.S.L.

2. Ext-A:- Scene of Crime Visiting Report by the Finger Print Expert.

3. Ext-B:- Finger Print Examination Report of knife.

4. Ext-1:- Printed form of F.I.R.

5. Ext-3:- Search and Seizure List dated 08.12.2017

6. Ext-4:-Seizure List dated 09.12.2019

7. Ext-5:- Search and Seizure List dated 10.12.2017

8. Ext-6:- Statement of Pankaj Kumar, recorded under Section 164 Cr.P.C.

9. Ext-7:- Seizure List dated 27.12.2017

10. Ext-8:- Dead Body Challan.

11. Ext-9:- Seizure List dated 27.12.2017

12. Ext-9:- Inquest Report of the victim.

13. Ext-10:- Postmortem Examination Report of the victim

14. Ext-11:- Specimen handwriting of accused Gobind Kr. Singhal.

15. Ext-12:- Specimen handwriting of accused Gobind Kr. Singhal, taken in

presence of Asstt. Commissioner of Police, Jalukbari Divn., Guwahati-09

16. Ext-13:- F.S.L. Report of blood sample of the deceased girl collected in an

EDTA vial, blood collected from Motorcycle in cotton gauze, blood collected from the place of occurrence, the toilet of the accused person in a cotton gauze, one yellow coloured plastic rope containing stain of suspected blood, one torn and half burnt cloth containing stain of suspected blood and one black coloured jeans long pant containing stain of suspected blood. The blood collected from the victim girl, collected from the place of occurrence, the toilet of the accused, from the yellow coloured plastic rope and the blood collected from black coloured jeans long pant gave positive test for human blood of group B. The blood collected from the motor cycle gave positive test for human blood only, but its group could not be determined due to insufficient test material. The suspected blood collected from torn and half burnt cloth gave negative test for blood.

17. Ext-14:- Crime Scene Report of F.S.L.

18. Ext-15:- Forwarding Report of Ext-14.

19. Ext-16:- F.S.L. Report regarding blood sample of victim Sweta Agarwala and one small knife.

20. Ext-17:- Forwarding Letter of Ext-16.

21. Ext-18:-Forwarding Letter of F.S.L.

22. Ext-20:- Examination Report of Blue Colour liquid send to F.S.L., Guwahati for examination and according to F.S.L., the blue colour liquid gave positive test for kerosene oil, which is inflammable.

23. Ext-21:- Forwarding Letter of Ext-20.

24. Ext-22:- F.S.L. Report of examination of hair strands and according to F.S.L., same is scalp hair of human.

25. Ext-23:- Forwarding Letter of F.S.L.

26. Ext-24:- Opinion issued by Jr. Scientific Officer, Wuestion Document Division, Directorate of F.S.L., Assam, Kahilipara Bapukan Choudhury and he has opined that the person who had wrote the writing marked as S1 to S8 and A1 to A15 also wrote the red enclosed writings similarly stamped and marked as Q1 to Q3.

27. Ext-25:- Forwarding Letter of Ext-24

28. Ext-26:- Seizure List dated 12.02.2018

29. Ext-26:-Sketch Map with colour photograph of the deceased.

30. Ext-27:- Laboratory Report of the deceased.

C. Material Exhibits, Proseuction:

- 1.** M.Ext.1 :- corresponding to MR No. 298/17 is the folding knife.
- 2.** M.Ext.2 :- Black jeans pant corresponding to MR No. 298/17.
- 3.** M.Ext.3 :- Pair of hand gloves corresponding to MR No. 298/17
- 4.** M.Ext.4 :- Ladies handbag of the deceased Sweta Agarwal containing Admit card, one calculator, one ladies watch, a key and one plastic water bottle with half filled water.
- 5.** M.Ext.5 :- Sharp knife.
- 6.** M. Ext. 6 :- Envelope containing the pieces of nylon rope.
- 7.** M. Ext. 7 :- Pair of ladies shoe.
- 8.** M. Ext. 8 :- Floor cleaning cloth with blood stains.
- 9.** M. Ext. 9 :- Three pen drives.
- 10.** M.Ext. 10 :- Lenovo laptop.
- 11.** M.Ext. 11 :- Compact disk, corresponding to MR No. 300/17.
- 12.** M.Ext. 12 :- Gent's purse of accused Gobind Singhal.
- 13.** M. Ext.13 :- Cash amount of Rs. 1,02,500/-.
- 14.** M.Ext. 14 :- Long exercise book of Gobind Singhal.
- 15.** M.Ext. 15 :- Stamp paper
- 16.** M. Ext. 16 :- Rat killer.

17. M. Ext. 17 :- mi CE1317 mobile phone.
18. M.Ext.18 :- HTC mobile phone
19. M. Ext.19 :- Samsung mobile phone
20. M. Ext.20 and 21 :- Two pieces of English writings in two napkins of café coffee day.
21. M. Ext.22 :- Plastic bottle containing kerosene.
22. M. Ext.23 :- Match Box.
23. M. Ext.24 :- Churni of the deceased Sweta Agarwal.
24. M. Ext.25 :- Long exercise book of the deceased Sweta Agarwal.

D. Defence Witnesses:

1. DW-1 Shri Radheshyam Singhal
2. DW-2 Smt. Harshita Verma
3. DW-3 Shri Aditya Gupta

E. Defence Exhibits:

1. Ext. a :- Trade License.
2. Ext. b :- Certificate issued by ICAI.
3. Ext. c :- Certificate of membership of ICAI.
4. Ext. d :- M.Com examination mark-sheet of accused Bhabani Singhal.
5. Ext. e :- B.Com examination mark-sheet of accused Bhabani Singhal.
6. Ext. f to Ext. l :- Achievement certificates of accused Bhabani Singhal.
7. Ext. m :- B.Com examination mark-sheet of accused Gobind Singhal.
8. Ext. n :- C.A. Foundation mark-sheet of accused Gobind Singhal.
9. Ext. o :- C.A. IPC/ATE examination mark-sheet of accused Gobind Singhal.
10. Ext. p:- Ext.q and Ext. r :- Achievement certificates of accused Gobind Singhal.
11. Ext. s :- Medical documents of accused Kamala Devi Singhal.

- 12.** Ext. t :- Certificate of insurance of the motorcycle bearing registration No. AS-01-BT-6977.
- 13.** Ext. u and Ext. v :- Status report.
- 14.** Ext. w :- Letter written by the advocate to the Hike Company.
- 15.** Ext. y :- Status update of Hike account registered with phone No. 9954030131 of Sweta Agarwal.
- 16.** Ext. z :- Letter dated 20.05.2019.
- 17.** Ext.z (i) :- Certificate of Hike Private Limited issued under the Companies Act.
- 18.** Ext.z (ii) :- Letter of authorization.
- 19.** Ext.z (iii) :- Affidavit-cum-certificate issued under section 65-B of the Evidence Act.

(Shri A. Chakravarty)
Sessions Judge,
Kamrup (M), Guwahati.