

**10 SCOB [2018] HCD****HIGH COURT DIVISION**

Death Reference No.03 of 2010.

**The State**

... Petitioner

**Vs.**

**Md. Manik**

... Condemned-Prisoner

Mr.Farhad Ahmed, DAG

Mr.Md.Moniruzzaman Rubel, DAG

Mr.Delowar Hossain Somadder, DAG

Mr.Nizamul Haque Nizam, AAG

... Petitioner

Mrs.Sarker Tahmeena Begum, Advocate

... for the informant

with

Criminal Appeal No.416 of 2010.

Md. Manik

... appellant

**Vs.**

The state

Mr.Khondaker Mahbub Hossain, Adv.

... for the appellant

with

Criminal Appeal No.664 of 2010.

Md.Alauddin

... appellant

**Vs.**

The state

Mr.Munsurul Haque Chowdhury, Adv.

... for the appellant

with

Criminal Appeal No.917 of 2010.

Anwar Hossain @ Anwar

... appellant

**Vs.**

The state

Mr.Abdul Kader Bhuiyan, Advocate

... for the appellant

with

Criminal Appeal No.1378 of 2010.

Nurul Islam Munshi

... appellant

**Vs.**

The state

Mr.Yousuf Hossain Humayun, Advocate

with

Mr.S.M.Rezaul Karim, Advocate

... for the appellant

with

Criminal Appeal No.1070 of 2010.

Jony Ghosh @ Jona

... appellant

-Versus-

The state

Mr.A.M.Mahbub Uddin, Advocate

... for the appellant

and

Jail Appeal No.60 of 2010.

Md.Manik

... appellant

-Versus-

The State

No one appear

... for the appellant

Heard on:11.11.15, 12.11.15,15.11.15,

18.11.15, 19.11.15, 22.11.15, 23.11.15,

24.11.15 &25.11.2015.

Judgment on: 07.12.15& 08.12.2015.

**Present:**

**Mr.Justice Bhabani Prasad Singha**

**And**

**Mr.Justice S.M. Mozibur Rahman**

**Code of Criminal Procedure, 1898****Section 164:**

**On perusal of the confessional statements, no irregularities or illegalities in recording the statements are found. So, there is no difficulty to come to a finding that the**

**confessional statements of the condemned-accused-prisoner and the other convict-accused-persons are voluntary and true and that the said statements may well form the basis for conviction of the accused-persons. ... (Para 56)**

**Retraction of confessional statement:**

**It has already been found that the confessional statements as made by the accused-persons are true and voluntary. It is the settled law that “Confessional statement whether retracted or not, if found voluntary can form the sole basis of conviction of the maker. ... (Para 57)**

### **Judgment**

**Bhabani Prasad Singha,J:**

1. This Death Reference has been made by the Judge, Speedy Tribunal No.4, Dhaka for confirmation of death sentence imposed upon the condemned-accused-prisoner Md.Manik under sections 302/201/34 of the Penal Code read with sections 7, and 8/30 of the Nari-O-Shishu Nirjatan Daman Ain,2000 (Amended in 2003) vide his judgment and order of conviction and sentence dated 24.01.2010 passed in Druta Bichar Tribunal Case No.04 of 2009 arising out of Keraniganj P.S. Case No.28 dated 26.02.2009 corresponding to G.R. Case No.53 of 2009. By the said judgment and order of conviction and sentence, the trial Court found the convict-accused-persons Johni Ghosh @ Johna, Anwar Hossain @ Anwar, Md. Alaudin and Nurul Islam Munshi under sections 7,8/30of the Nari-O-Shishu Nirjatan Daman Ain,2000 (Amended in 2003) sentencing them to suffer imprisonment for life and to pay a fine of Tk.1,00,000/00, in default, to suffer rigorous imprisonment for one year more each under section 7 of the Ain and to suffer imprisonment for life and to pay a fine of Tk.1,00,000/00, in default, to suffer rigorous imprisonment for one year more under section 8 of the Ain each and to suffer imprisonment for life and to pay a fine of Tk.1,00,000/00, in default, to suffer rigorous imprisonment for one year more under section 8 of the Ain each making the sentences to run simultaneously.

2. Asagainst the said judgment and order, the condemned-accused-Prisoner Md.Manik Mia preferred Criminal Appeal No.416 of 2010 under section 14 of the Druta Bichar Tribunal Ain,2002 and Jail Appeal No.60 of 2010, the convict-accused Md. Alauddin preferred Criminal Appeal No.664 of 2010 under section 14 of the Druta Bichar Tribunal Ain, the convict-accused Anwar Hossain preferred Criminal Appeal No.917 of 2010 under section 14 of the Druta Bichar Tribunal Ain,2002 the convict-accused-Nurul Islam Munshi preferred Criminal Appeal No.1378 of 2010 and the convict-accused Jhoni Ghosh @ Jona preferred Criminal Appeal No.664 of 2010 under section 14 of the Druta Bichar Tribunal Ain,2002. The Death Reference and the Criminal Appeals being cropped up from the self-same judgment and order of conviction and sentence and the common question of law and facts being involved in the Death Reference and the Criminal Appeals, those have been heard analogously and are being disposed of by this single consolidated judgment.

3. The prosecution case, in short, is that Anamika Ghosh, the daughter of the informant Sudharam Ghosh aged about 9 (nine) years was a student of Class-III of Pacific Kinder Garten School of west Bamansur. On 26.02.2009 at 11.30 a.m. she went to the school to appear in the examination. After examination she was returning home with her cousin Toma Ghosh and her friend Sadia. At 1.40 p.m. when they reached in front of the Bamansur

Graveyard then an unknown man came to her from a yellow taxicab which was there from before. That man called Anamika and told her that he was performing business with her father. He told that he would go to their residence telling her to accompany him. At that time, two other persons were there inside the taxicab. When Anamika reached near the taxi cab, those persons forcibly dragged her into the taxi cab and kidnapped her away. Thereafter, another unknown person told Toma and her friend Sadia to inform Anamika's house about the kidnapping of Anamika. Then, they went to the house of Anamika and informed about the act of kidnapping. On 27.02.2009 at 12.00 'O' clock, the nephew of the informant received a mobile phone call by which some one demanded 10.00 (ten) lakh taka as ransom money for release of Anamika saying that if his demand is not met, he would kill Anamika. On 27.02.2009 at night, once again the inmates of the house of the victim Anamika received another mobile phone call by which they were told to send said money to Gabtoli. Thereafter, on 28.02.2009 at 8.00 a.m., the accused-persons once again made mobile phone call to send the said ransom money. After bargaining the ransom money was fixed at Tk.2.10 lakhs. The kidnappers asked the informant to send the ransom money at a place behind the Atibazar Cinema Hall. Accordingly, the informant sent the said money. Thereafter, the kidnappers informed that they received the ransom money saying that they would return the victim Anamika within a short time. Thereafter, on 01.03.2009, police found the dead body of Anamika in a paddy field under Shibaloy Police Station, Manikganj and sent news to the informant. The informant and others identified the dead body to be of Anamika. The kidnappers i.e. the accused-persons kidnapped the victim Anamika from the place of occurrence, demanded ransom for her release and even after realization of ransom money killed the victim Anamika.

4. On receipt of the First Informant Report (hereinafter referred to as the FIR) of the case police took up investigation of the case and after investigation prima-facie case having been made out against the accused-persons, submitted Charge Sheet No.91 dated 25.04.2009 of Keraniganj P.S. under sections 302/201/34 of the Penal Code read with sections 7 and 8/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (amended in 2003) against them.

5. During trial, the accused-persons stood charged under sections 302/201/34 of the Penal Code read with sections 7 and 8/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (amended in 2003).

6. To substantiate its case the prosecution in all examined as many as 22 (twenty two) witnesses. On the other hand, the defence examined none.

7. On the closure of the evidence of the prosecution the accused-persons were examined under section 342 of the Code of Criminal Procedure to which they once again pleaded innocence informing the tribunal that they would not adduce any evidence on their behalf.

8. The defence case, as it transpires from the trend of cross examination of the prosecution witnesses is the denial and the plea of innocence in the alleged occurrence.

9. After trial, on hearing the learned Advocates for the parties and on perusal of the evidence on record and on consideration of the facts and circumstances of the case and so also on observation the material exhibits, the learned trial judge came to the finding that the prosecution had been able beyond all shadow of doubt to bring home the charge as brought against the accused-persons and accordingly, convicted and sentenced the accused-persons by the impugned judgment and order of conviction and sentence as aforesaid.

10. Mr. Delowar Hossain Somadder, the learned Deputy Attorney General (DAG) representing the State submits at the very outset that the learned trial court was well founded in convicting and sentencing the condemned-accused-prisoner and the other convict-accused-persons by the impugned judgment and order and as such, it does not warrant interference by this Court; that the confessional statement as made by the accused-persons are not only true but also voluntary; that there was no illegality or irregularity in recording the confessional statements of the accused-persons. The learned DAG further submits that the impugned judgment and order should be affirmed and the Criminal Appeals and the Jail Appeal as preferred against the judgment and order of the trial Court convicting and sentencing the condemned-prisoner and the other convict-accused-persons should be dismissed. The learned DAG prays for acceptance of the Death Reference. The learned DAG also referred the case laws reported in 44 DLR (AD) at page 287, 18 BLD (AD) at page 254, 8 BLC at page 501 and 16 BLC at page 579.

11. Advocate Mr. Khondaker Mahboob Hossain representing the condemned-accused-prisoner Md.Manik in Criminal Appeal No.416 of 2010 submits that all the five accused-persons were involved in the alleged occurrence; that the entire case depends on confessional statements; that this accused had no intention to kill the victim deceased; that although the four other convict accused-persons have been sentenced to suffer imprisonment for life, this condemned-prisoner alone is sentenced to death. Finally, the learned Advocate stating the offence to be a heinous one submits that this accused being of young age having children justice demands that the death sentence as awarded to him may be commuted and it may be altered to a sentence of imprisonment for life. The learned Advocate also referred the case law reported in 66 DLR (AD) at page 199.

12. Advocate Mr. Munsurul Haque Chowdhury representing the convict-accused-appellant Md. Alauddin in Criminal Appeal No.664 of 2010 submits that this convict-accused is not an FIR named accused; that on the basis of the information of the Pw20Toma only, this accused-appellant has wrongly been implicated in this case; that the informant had no direct knowledge about the alleged kidnapping; that there is no eye witnesses in this case; that the Pw 20 Toma did not say as to what role this accused played in the alleged occurrence; that the confessional statement of this accused is not true and voluntary; that he was in no way connected with the alleged kidnapping and killing of the victim; that the allegation against this convict-accused-appellant being not proved beyond reasonable doubt, he may be acquitted. The learned Advocate lastly submits that if the impugned judgment and order of conviction and sentence is upheld and confirmed, the sentence as awarded to this convict accused-appellant may be commuted awarding lesser sentence.

13. Advocate Mr.Yusuf Hossain Humayun representing the convict-accused-appellant Nurul Islam in Criminal Appeal No.1378 of 2010 submits that the name of this accused does not appear in the FIR and that he has been falsely implicated in this case on the basis of the confessional statements of the co-accused-persons; that the confessional statement of this convict-accused is not true and voluntary; that the prosecution could not prove the charge against this convict-accused-appellant. Lastly, stating that the alleged occurrence is a very touchy, unfortunate and pathetic one, the learned Advocate submits that in the facts and circumstances of the case the imprisonment for life as awarded to this convict-accused is not justified.

14. Advocate Mr. A.M.Mahboobuddin Khokan representing the convict-accused-appellant Johni Ghosh @ Johna in Criminal Appeal No.1070 of 2010 submits that this accused is not an FIR named accused although he is a local man; that no physical act or no means rea in the alleged occurrence is proved against this accused-appellant; that there is nothing with regard to demanding ransom and realization of the same against this accused-appellant; that the findings of the trial Court that the confessional statement as made by this accused-appellant is true and voluntary is not correct; that keeping a mobile phone by this accused is not an offence; that recording of the confessional statements of all the accused-persons and completion of recording the same at the same time is not believable; that the confessional statement of this accused-appellant has not been recorded properly and that by the confessional statement of the accused Johni Ghosh itself, he cannot be convicted; that the accused Anwar Hossain did not implicate this convict-accused appellant in the alleged occurrence. The learned Advocate lastly submits that although the alleged occurrence is a heinous one, the prosecution could not bring home the charge as brought against this convict-accused-appellant and hence, the Criminal Appeal as filed by him may be allowed and he may be acquitted on setting aside the impugned judgment and order of conviction and sentence as passed against him.

15. Advocate Mr.Abdul Kader Bhuiyan representing the convict-accused-appellant Md. Anwar Hossain in Criminal Appeal No.917 of 2010 submits that this convict-accused appellant is not an FIR named accused; that none of the prosecution witnesses identified this accused in their evidence; that excepting his confessional statement, no prosecution witness said about his involvement in the alleged occurrence of kidnapping, demanding of ransom or killing of the victim against this convict-accused-appellant; that the confessional statement of this accused is not true and voluntary; that the trial Court wrongly convicted and sentenced this convict-accused-appellant and as such, the impugned judgment and order so far as it relates to this convict-accused-appellant is not maintainable. The learned Advocate lastly prays for acquittal of this convict-accused appellant.

16. In order to appreciate the respective arguments of the learned Advocates, we would now discuss the evidence adduced by the prosecution in support of its case.

17. The P.W. 1, the informant Sudharam Ghosh, the father of the victim Anamika Ghosh stated in his deposition that the occurrence took place on 26.02.2009. His daughter Anamika Ghosh aged about 9 years was a student of Class-III in Bamansur Kinder Garten School. On 26.02.2009 she had examination in that school. After appearing in the examination while she was returning home at 1.40 p.m. and when reached the road in the eastern side of Bamansur graveyard with his niece Toma Ghosh and Sadia, her friend, a taxicab was standing there at the place of occurrence. In that taxicab there were three persons including the driver. At the time of occurrence a person came down from the taxicab and told Anamika that he used to perform business with her father and that he would go to their house and asked her to take them to their house. Thereafter, those three persons dragged his daughter forcibly into the taxicab, kidnapped her away and speedily went towards the south. At that time, Toma and Sadia were standing. At that time, an unknown person standing there told Toma that the accused-persons kidnapped Toma away. He asked her to go home and inform the house of Toma quickly about the kidnapping. The hair of his daughter Anamaika was curly. She was 3' feet high. Her complexion was fair. Her body was slim. She was wearing school dress, she had blue shirt, was wearing white and navy blue shirt, put on cads, had I.D. card, had a pencil box containing pencils and hardboard, she was wearing half-pant and school shoes etc. The victim was accompanied by Toma Ghosh and Sadia. The victim having not found on

frantic search, he lodged the First Information Report (FIR) of the case with Keraniganj P.S. on 26.02.2009 at 9.30 p.m. This witness proved the FIR as Exhibit-1 and his signature therein as Exhibit-1/1. This witness further deposed that on 27.02.2009 at 12 'O' clock noon, a mobile phone call came to the house of his nephew demanding Tk.10.00 lakhs as the ransom money for the release of the victim saying that if the demand was not met, the victim would be killed and that if the demand was met, the victim would be released. In that phone neither the identity of the caller nor his address was given. Thereafter, on 27.02.2009 at 8.00 p.m. again a mobile phone call came asking to take the money to Gabtoli. They forthwith informed the Keraniganj P.S. about the occurrence and the phone call. Thereafter, on 28.02.2009 at 8.00 a.m. in the morning another phone call came and he was asked to make the payment on that very date, otherwise, they would kill the victim. At that time, the ransom money was settled at Tk.2.10 lakhs. He was asked to keep the money at a place behind the Ati Bazar Cinema Hall and he was also asked not to inform the police of the matter. After consultation among the brothers, for the safety of the victim, they sent Tk.2.10 lakhs through his brother Nanda Gopal Ghosh. Thereafter, the accused-persons acknowledged receipt of the money over mobile phone saying that he would get back his daughter. They, thereafter, kept searching for his daughter. On the following day i.e. on 01.03.2009 at about 9.30 a.m. in the morning an information came over mobile phone from the Officer-in-Charge, Shibaloy P.S. to the effect that the dead body of a 8/9 year old girl was found and that she had a tie in a shopping bag wherein the name of the school of the victim was written. From the shop when the Officer-in-Charge was informed about the mobile phone number of his brother Durga Charan, the officer-in-charge informed about the dead body to Durga Charan. Thereafter, his brother Durga Charan informed them about the occurrence whereon they informed Keraniganj the police station of the occurrence. Thereafter, they went to Shibaloy P.S. with the police of Keraniganj P.S. From there they went to the morgue of Manikganj Sadar Hospital and identified the dead body of the victim Anamika Ghosh. After Post Mortem Examination on the dead body of the deceased, they brought the dead body to their house on 01.03.2009 and cremated it. In his cross on behalf of the accused Manik this witness stated that he used to reside at Shikaritola in his paternal house. The FIR of the case was written in the Police Station. He did not mention the name of any accused in the FIR. His daughter went to the school at about 11.30 a.m. On that date she had examination. His niece Toma and Sadia gave him information about the occurrence. On 27.02.2009 at 12 'O' clock noon, the kidnappers demanded Tk.10.00 lakhs as ransom. He paid Tk.2.10 lakhs as ransom. The money was kept at an open place behind the cinema hall. 30 minutes after the money was kept, the accused-persons informed that they received the ransom money. In the mobile phone of his nephew Pradip Ghosh, the accused-persons acknowledged the receipt of the ransom money. At about 2.00 p.m., he saw the dead body of his daughter. This witness denied the defence-suggestions that he did not go to Shibaloy P.S. or Hospital or the dead body was not of his daughter or that he knew the accused Manik from before or that the accused Manik was not involved in the occurrence of kidnapping and murder or that he falsely deposed in the case. In his cross on behalf of the accused Alauddin this witness stated that the name of the accused Alauddin was not there in the FIR. He knew Alauddin from before. This witness denied the defence-suggestions that Alauddin was not present at the time of kidnapping or that he did not demand ransom money or that he falsely implicated the accused Alauddin in the case or that his niece did not mention the name of the accused Alauddin. In his cross by the accused Johni Ghosh@ Johna this witness stated that his daughter was kidnapped at 1.40 p.m. He heard about the occurrence from Sadia as well. The FIR was written as per his oral version. He did not mention the names of the accused-persons in the FIR. In total three persons kidnapped his daughter. His daughter was nine years of age. After he sent message to the Police Station, police came to his residence at 10.00 p.m. This

witness denied the defence—suggestions that the accused Johni Ghosh was not involved in the alleged occurrence or that his confessional statement was procured through torture or that he deposed falsely. In his cross on behalf of the accused Anwar Hossain this witness stated that he heard about the occurrence of kidnapping from Toma and Sadia at day time. It was written in the FIR that an unknown person told Toma that her sister was kidnapped away. On the following day i.e. on 27.02.2009 at about 12 'O' clock noon in the mobile phone of his nephew Tk.10.00 lakhs as ransom was demanded saying that if the demand was not met, the victim would be killed. This witness denied the defence-suggestions that Toma and Sadia did not see anything or that he did not tell the aforesaid facts to police or that the accused Anwar was not involved in the alleged occurrence of killing and realization of ransom money or that he did not collect the ransom money or that he deposed falsely.

18. The P.W. 2 Sree Nanda Gopal Ghosh stated in his deposition that his niece Anamika Ghosh and Toma werethe students of kinder Garten School. On 26.02.2009 they had examination. As usual, on that date at about 11.30 a.m. they went to school. After appearing in the examination while Anamika, Toma and Sadia were returning home at 1.40 p.m. and reached in front of the gate of west Bamansur graveyard, an yellow taxicab was standing there. From the taxicab a person came down and asked Anamika about her father's name. Then his niece disclosed her name to be Anamika. Then said person told Anamika that he used to perform business with her father and also told that he would go to their residence. Saying that, said man took his niece into the taxicab and went towards the south. A person standing beside the taxicab told Toma that his sister Anamika was kidnapped away. After he came to know about the kidnapping of Anamika from his niece they made search for Anamika and on search, she was not being found, his brother went to the police station and filed a case. On 27.02.2009also they made search for Anamika. On that date at about 12.00'o'clock noon a mobile phone call came to the mobile phone of his nephew Surajit and was asked as to whether they lost anything. Then Surajit Ghose told that the daughter of his maternal uncle was missing. Then that man informed that Anamika was with them. They would talk to his maternal uncle. His nephew gave the mobile phone to his elder brother and the kidnappers demanded Tk.10.00 lakhs as ransom money. The kidnappers instructed his elder brother not to inform police of the occurrence and said that if police was informed, they would kill Anamika. When his elder brother asked as to he how would find so much money, the kidnappers switched off the mobile phone. The number of the mobile phone was 017461362688. The mobile phone number of his nephew was 017124425045. Subsequently, the ransom money was settled at Tk. 2.10 lakhs through negotiation. The kidnappers asked to reach the ransom money to Gabtoli. Thereafter, at 8.00 a.m. in the morning, the kidnappers once again made mobile phone call and told them that if ransom money was not paid on that very day they would kill the victim Anamika. When they asked as to where they would make the payment, the kidnappers told them that would let them know later where to make the payment. At about 3.00 p.m., the kidnappers made mobile phone call once again and asked to realize the money at once. Then to save the life of his niece they all together collected Tk.2.10 lakhs. The kidnappers instructed them to keep the money in a bush behind the Ati Bazar Cinema Hall. Accordingly, they kept the money there. Half an hour after that, the kidnappers acknowledged the receipt of the ransom money saying that they would release Anamika nearby their house. Till the dusk, the kidnappers kept their mobile phone switched off. After payment of money, they made search for Anamika here and there and sat beside their house at night for Anamika. On the following day at about 9.00 a.m. in the morning, a mobile phone came to his elder brother Durga Charan Ghosh from Shibaloy Police Station and he was informed that the dead body of an unknown girl was found and that in an identity card, the name of 'Pacific Kinder Garten School' was written. Hearing that, his elder brother

Sudharam Ghosh and Durga Charan Ghosh went to Shibaloy Police Station Manikganj taking the Police of Keraniganj Police Station and they identified the dead body of Anamika. The dead body was cremated. After 6/7 days, the accused Johni Ghosh was arrested. Hearing that, he went to the house of the accused Johni Ghosh. Police recovered the mobile phone from Johni Ghosh by which the kidnappers made correspondences. Johni Ghosh admitted that he alongwith other accused-persons kidnapped away Anamika, realized ransom money and killed her and that the accused-persons Manik, Alauddin, Anwar and Nur Islam and Narayan were involved in the alleged occurrence. This witness identified the aforesaid accused-persons in the dock. In his cross by the accused Manik, this witness stated that the distance between his shop and his residence was about 2-3 kilometers. On the date of occurrence there was examination of the victim in the school. At 11.00/11.30 a.m. in the morning the examination started and was finished at 1.10 p.m. On 27.02.2009 he went to the police station. The kidnappers demanded ransom money from his elder brother on 27.02.2009 at about 12.0' clock noon. They all together paid 2.10 lakhs as ransom money. He kept the ransom money in a bush of Kalmilota. The money was kept in a shopping bag. This witness denied the defence-suggestions that he did not keep the ransom money in a bush or that he along with his brother paid money to the police officer, to beat up the accused Anwar or that he falsely implicated the accused Manik and Anwar in the case. In his cross on behalf of the accused Johni Ghosh, this witness stated that he made statement to police at his residence. The mobile phone number of his nephew was 01724425045 and the mobile phone number of the kidnappers was 017461131262. At the time of arrest of the accused Johni Ghosh, Mona Ghosh along with others were also present. Anamika and Toma themselves went to the school. This witness denied the defence-suggestions that the house of Toma Ghosh and Johni were adjacent to each other or that due to enmity, the accused Johni Ghosh was falsely implicated in the case or that he deposed falsely. In his cross on behalf of the accused Alauddin this witness stated that he saw the accused-Alauddin on 07.03.2009 in the Police Station. This witness denied the defence-suggestions that the statement made by him to the police and before the Court are different or that he falsely stated the name of the accused Alauddin.

19. The P.W.3 Constable Md.Ali Hossain deposed that on 01.03.2009 vide G.D.No.23 of Shibaloy P.S., he took the dead body of a 8/9 years old girl to the morgue vide C.C. No.01/09 dated 01.03.2009. After post mortem examination, he made over the dead body along with some alams viz. a pair of cads a blue colour half pant, a yellow white colour banianetc.to the police station. He made over the dead body to the guardians of the deceased. This witness proved the C.C. as Exhibit-2, his signature therein as Exhibit 2/1,Chalan as Exhibit-3and his signature therein as Exhibit-3/1. This witness identified the materials as Material Exhibits-I series. This witness stated in his cross at the time of holding inquest he was not present. Excepting carrying of the dead body, he knew nothing.

20. The P.W.4 Sree Durga Charan Ghosh stated in his deposition that his niece Toma and Anamika were the students of class-III in the 'West Bamansur Pacific Kinder Garten School'. On 26.02.2009 at about 11.30 a.m. they went to the school. On that date they had examination. On their way back to home after appearing in the examination, when they came in front of the gate of West Bamansur graveyard, a yellow taxicab with 3 persons was standing there. From the taxicab, a person came out and called Anamika and asked her about her father's name, In reply, Anamika told that her father's name was Sudharam Ghosh. Then, that Man told Anamika that he used to perform business with her father and that he would go to their residence. Saying that, by way of enticing, that man took Anamika into the taxicab and kidnapped her away. At that time a man was standing there who asked Toma to tell her



father that Anamika was kidnapped away. Toma informed the inmates of her house of the occurrence. After going to his home he saw that everybody was crying. On asking, Toma disclosed about the occurrence of kidnapping away of the victim Anamika. Then they searched for Anamika at different places but did not find her. His brother went to the police station and lodged the FIR of the case. On 27.02.2009 in the morning, a mobile phone call came to his nephew and was asked as to whether they lost anything. In reply, his nephew informed that the daughter of his maternal uncle was lost. Then the kidnappers said that they would talk to his maternal uncle. Then his nephew gave the mobile phone to his elder brother. Then the kidnappers told his brother that the victim was with them and that if they were paid Tk.10.00 lakhs as ransom money, they would release her. Then his brother said from where he would pay so much money to which the kidnappers told that he had to pay the entire Tk.10.00 lakhs, otherwise, they would kill the victim. The kidnappers also asked not to inform the occurrence to police. When the informant said that he would not be able to pay Tk.10.00 lakhs, rather, he would pay less than that, the accused-persons switched off the mobile phone. They supplied the mobile phone number of the kidnappers to the police. The number of the mobile phone was 01746136288. Then police advised them to keep conversation with the kidnappers. At dusk, the kidnappers once again made mobile phone call. Then the ransom money was settled at Tk. 2.10 lakhs through negotiation. The kidnappers asked to take the money to Gabtoli and to send Tk.200/-to their mobile phone. When his brother told that at this time of night it would not be possible to take money to Gabtoli then the accused-persons switched off the mobile phone. On 28.02.2009 in the morning the kidnappers once again made mobile phone call for the ransom money. His brother replied that out of fear they did not take the money. At about 3.00 p.m. on that date the kidnappers made mobile phone call saying that if their demand was not met by that day they would kill the victim. Thereafter, the kidnappers asked to take the money behind the Ati Bazar Cinema Hall. Then they all together collected the ransom money and sent it through his younger brother Nanda Gopal Ghosh considering the safety of life of the victim. Half an hour after that when his brother came keeping the ransom money at the place as mentioned by the kidnappers, the Kidnappers acknowledged that they received the same saying that they would release the victim in their area. Thereafter, they searched for the victim girl up to late night but did not find her. On 01.03.2009 in the morning the Officer-in-Charge, Shibaloy police station informed him over mobile phone that the dead body of a 8/9 year old girl was found with a shopping bag. The bag was of 'Nandan Fabrics' at Savar. By that mobile phone call the Officer-in-Charge informed that in the tie of the victim the name of 'Pacific kinder Garten School' was written. The Officer-in-Charge asked as to whether there was any school in the name of 'Pacific Kinder Garten', then his brother-in-law Sanjib Ghosh, the owner of 'Nandan Fabrics' informed that the niece of Durga Charan was lost 2 days back. Then, his brother-in-law gave his mobile-phone number to the Officer-in-Charge. The Officer-in-charge informed them over mobile phone that in a paddy field situated at Dutrabazar area under Shibaloy Police Station the dead body of a 8/9 year old girl was found and that the name of 'Pacific kinder Garten School' was written in the tie she was wearing. In view of said information he along with his brother Sudharam went to Shibaloy P.S by a baby taxi and there from went to Manikganj Sadar Hospital taking two police personnel with them and identified the dead body at the morgue. After post mortem examination they brought the dead body to their house and cremated it. On 07.03.2009 at dusk they heard that the killers of the victim Anamika were arrested by police of Keranigang Police Station. Hearing that, he went to the house of the accused Manik, whereon query, the accused Manik admitted that they kidnapped away Anamika and that he collected the ransom money through his nephew Anwar. He also admitted that they killed Anamika by throttling and buried her dead body in a paddy field under heaps of soil; that police recovered Tk.1,27,000/- out of the realized ransom money

from his house; that the accused-persons Johni Ghose, Alauddin, Nurul Islam, Anwar Hossain and Narayan were also involved in the alleged occurrence. Police seized the mobile phone used at time of kidnapping and seized and recovered money from the accused Manik under a Seizure-List. This witness proved the Seizure-List as Exhibit-4 and his signature therein as Exhibit-4/1 and identified the alams viz. a mobile phone and recovered money as Material Exhibits-II and III series. This witness further deposed that the local people did postering for death sentence of the accused-persons. The mobile phone number of his nephew Surajit Ghose was 01720425045. After the SIM and the posters were deposited in the police station, police seized them under a Seizure-List. This witness proved the Seizure List as Exhibit-5 and his signature therein as Exhibit-5/1 and the seized alams viz. SIM and posters as Material Exhibits-iv and v series. This witness further stated that in connection with the case he made statement to a Magistrate under section 164 of the Code of Criminal Procedure. This witness proved the statement he made before the Magistrate as Exhibit-6 and his signature therein as Exhibit-6/1. This witness further stated that police examined him. This witness identified the accused-persons in the dock. In his cross on behalf of the accused Johni Ghose this witness stated that one month after the arrest of the accused-persons he made statement to police. At the time of kidnapping of Anamika, Toma and Sadia were with her. The number of his mobile phone was 01716643222. He himself came to the Sadar Hospital and identified the dead body of Anamika. After he informed the police station of the occurrence, police recorded the FIR. This witness denied the defence-suggestions that his niece Anamika used to remain absent from the school or went to an unknown place or that the accused Manik did not mention the name of the accused Johni Ghosh as one of perpetrators of the alleged occurrence. In his cross on behalf of the accused Manik this witness stated that he read up to class-IX. The accused-persons themselves acknowledged the receipt of the ransom money over mobile phone. This witness denied defence-suggestions that the accused Manik had enmity regarding business with the informant or that he deposed falsely. In his cross on behalf of the accused Alauddin this witness denied the defence-suggestions that he did not tell the name of Alauddin to the Magistrate. In his cross on behalf of the accused Anwar this witness stated that after all the accused-persons were arrested, many people including his brother went to the police station. This witness denied the defence-suggestions that the accused Anwar was innocent or that he had been implicated falsely in the case.

21. The P.W.5 Kazi Abdur Razzak deposed that on 01.03.2009 he heard that dead body of a child was found in the IRRI field of Duturabari village under his union. He thereafter went to the IRRI field to see the dead body of a child. Then they informed the local police beat about that whereon the Officer-in-Charge of the police station along with police came there and recovered the dead body of the child and took photographs of the dead body. The deceased female child was wearing a school dress and a tie at her neck with the monogram of a kinderGarten School. The child had shocks with shoe at her feet and there was a school bag as well. Police seized those articles under a Seizure-List which he attested as a witness. This witness proved the Seizure-List as Exhibit-7, his signature therein as Exhibit-7/1 and identified the recovered materials as Material Exhibit-VI series. In his cross on behalf of the accused Manik this witness stated that the place from where the dead body was recovered was 150 yards away from the road. He himself gave information about the dead body to the police station. The victim child was wearing school dress. The school bag was beside her. This witness denied the defence-suggestions that he did not either see the recovery of the dead body or seizure of the alams. The other accused-persons declined to cross examine this witness.

22. The P.W.6 Md.Mojibor Rahman stated in his deposition that on 01.03.2009 he saw the dead body of a girl on the road after going to a place named Dhuturabari. At that time, 1000/1500 people were present. Police and the Officer-in-charge were also present. He saw blue shirt tie, white shocks on the dead body of the deceased. There was a bag beside the dead body. He himself saw the seized articles. He attested the Seizure-List. This witness proved his signature in the Seizure-List as Exhibit-7/2. This witness identified the seized alamats in the Court. In his cross on behalf of all the accused-persons this witness stated that he saw the dead body on the road. This witness denied the defence-suggestions that he was not present at the place of occurrence or that he did not see recovery of the seized alamats.

23. The P.W.7 Shyam Dulal Ghosh deposed that his niece Anamika and Toma as usual went to the school. On 26.02.2009 after appearing in the examination when they were returning home, a taxicab and three persons were standing at the west Bamansur graveyard. His niece Anamika, Toma and Sadia came there together. Then a person asked Anamika as to what was her father's name. In reply, Anamika disclosed that her father's name was Sudharam Ghosh. Then, that person told Anamika that he used to perform business with her father and insisted Anamika to take him to her father and enticed her to board the taxicab and went towards the south taking Anamika. At that time, another person was standing there. That person told Toma that Anamika was kidnapped away and that she should tell her father about this. Then, Toma came to their house crying and told that Anamika was kidnapped with a taxicab. Hearing that crying started in their house. Then they searched for Anamika at different places of their village but did not find her. After dusk, they filed case in the police station. After filing of the case police came to their house and made enquiries. On the following day at about 8.00 a.m. in the morning, a mobile phone came to his nephew Surajit and the kidnappers asked as to whether they had lost anything. In reply Surajit told that the daughter of his maternal uncle was kidnapped away yesterday. Then, kidnappers asked Surajit to give the mobile phone to this maternal uncle. When Surajit give the mobile phone to his brother, the father of Anamika, the kidnappers asked him as to whether he lost something. In replay, his brother said that his daughter did not return home from the school and that she was kidnapped away. Then, the kidnappers disclosed that his daughter was with them and that he had to pay Tk.10.00 lakhs to them as ransom money for the release of the victim Anamika. Then his brother told where from he would find so much money. Then through negotiation the ransom money was fixed at Tk.2.10 lakhs. The kidnappers held out threat to the effect that if the police was informed of the occurrence they would kill Anamika. They asked his brother to take the money to Gabtoli. Then, his brother expressed his inability to take the money to Gabtoli at such a time of night. Then, the accused-persons switched off the mobile phone. On the following day i.e. on 28.03.2009 at 8.00 a.m. in the morning the kidnappers asked to keep the money ready saying that they would take the money from a nearby place. Thereafter, at about 3.00/3.30 p.m. the kidnappers made mobile phone call once again asking to keep the money under a bush behind Ati Bazar Cinema Hall. Then they all brothers together collected Tk.2.10 lakhs and sent the money through their younger brother Nanda Gopal. When Nanda Gopal came back after keeping the money at the place as instructed by the accused-persons, they acknowledged the receipt of the money saying that after dusk they would release Anamika somewhere near their house. Thereafter, they searched for Anamika for the whole night but did not get her. On 01.03.2009 a mobile phone call from Shibaloy P.S. came to the mobile of his brother informing that the dead body of a 8/9 year old young girl of a Kinder garten School was found. Then they went to Shibaloy Police Station where from they went to the hospital and his brother identified the dead body of the victim. After post mortem examination, they cremated the dead body. About 5/6 days after that they came to know that police arrested the accused-persons who killed Anamika.

The accused-persons Johni Ghosh, Manik, Alauddin along with some others were arrested. Postering was made in respect of killing of Anamika. They gave the mobile phone number from which call came to them in the police station. They also deposited poster, mobile and SIM which police seized under a Seizure-List which he attested as a witness. This witness proved his signature in the Seizure-List as Exhibit-5/2 and identified the accused-persons in the dock. In his cross on behalf of the accused Manik this witness stated that the number of the mobile phone as mentioned in the seizure-list was 017204250. Out of Tk.2.10 lakhs ransom money, he himself paid Tk.40,000/-. This witness denied the defence-suggestions that he did not go anywhere for recovery of Anamika or that he deposed falsely. In his cross on behalf of accused Alauddin this witness stated that he made statement to police station on 29.03.2009 after dusk. He did not see Alauddin to demand toll. This witness denied the defence-suggestions that the accused Alauddin did not kidnap the victim or that he deposed falsely. In his cross on behalf of the accused Johni Ghose this witness stated that the accused-kidnappers did not disclose their names at the time of making mobile phone calls. This witness denied the defence-suggestions that he deposed falsely as per instruction of his brother. In his cross by the accused Nurul Islam this witness stated that he came to know after arrest of the accused-persons that the house of the accused Narayan was situated at a distance of ¼ mile from their house. This witness denied the defence-suggestions that driver Nurul Islam was not involved in the alleged occurrence. This witness was not cross examined on behalf of the accused Anwar.

24. The P.W.8 Sadhu Ghosh stated in his deposition that on 26.02.2009 Anamika and Toma Ghosh went to 'Pacific kinder garten School' as usual. While they were coming back home from the school and reached beside west Bamansur graveyard, the victim Anamika was kidnapped away by a taxicab. At that time a person standing there asked Toma to go home and inform her father and uncle that Anamika had been kidnapped away. Hearing the news, inmates of their house searched for Anamika but she was not found. On that date at night the father of Anamika went to the police station and filed the case. On 27.02.2009, a mobile phone call came to the cousin of Anamika to the effect that they had kidnapped away Anamika. Through the mobile phone the kidnappers demanded Tk.10.00 lakhs as ransom money for release of the victim Anamika. Subsequently, the ransom money was fixed at Tk.2.10 lakhs through negotiation. The accused-persons asked to keep the ransom money behind a cinema hall. Nanda Dulal Ghosh, the younger brother kept the money at the place as instructed by the kidnappers. The kidnappers acknowledged the receipt of the money assuring that they would return Anamika. Then they kept waiting for Anamika and searched for her but she was not found. On 01.03.2009 a mobile phone call came from Shibalo Police Station to the effect that the dead body of a girl child was found. Then the father and the uncle of Anamika Ghose went to Manikganj taking police with them and there, they identified the dead body of Anamika and brought the dead body to their house. Seeing the dead body, the local people became very sad. They cremated the dead body. 5/7 days after that police arrested the accused Johni Ghosh. Police recovered a mobile phone from Johni Ghosh. Police seized the mobile phone under a Seizure-List. On query, Johni Ghosh admitted that he himself, Manik, Alauddin, Anwar, Narayan and the driver kidnapped away the victim and killed her. This witness proved the Seizure List as Exhibit-8 and his signature therein Exhibit-8/1. This witness identified the seized mobile phone in the Court. This witness further deposed that the seized mobile phone was used in the act of kidnapping. This witness identified the accused-persons excepting the accused Narayan in the dock. This witness also identified the seized mobile phone as Material Exhibit-VII. This witness further deposed that police examined him. In his cross on behalf of the accused Anwar this witness stated that the informant was his neighbor. This witness denied the defence-suggestions that the accused-

Anwar was not involved in the alleged occurrence or that he deposed falsely. In his cross on behalf of the accused Manik this witness stated that he told police about 5 accused-persons. This witness denied the defence-suggestions that he deposed falsely as instructed by the informant. In his cross on behalf of the accused Alauddin this witness stated that he did not see who kidnapped Anamika away. This witness denied the defence-suggestions that he did not see the arrest of the accused-Alauddin. In his cross on behalf of the accused Johni Ghosh this witness stated that he put his signature in a written paper. This witness denied the defence-suggestions that at the time of seizure of the mobile phone he was not present or that the accused Johni Ghosh did not tell that Alauddin, Manik himself and driver killed Anamika or that he deposed falsely.

25. The P.W.9 Dr. Md. A. Halim Molla stated in his deposition that on 01.03.2009 he was attached to Manikganj Sadar Hospital as the R.M.O. On that date having received the dead body of a 8/9 year old girl through constable Ali Hossain they held post mortem examination on the dead body of the deceased by constituting a Medical Board. He was one of the members of board. At the time of post mortem examination they found mud inside the nose and mouth cavity of the deceased and also found both hands clinched. During post mortem examination they found following injuries on the person of the deceased.

- I. "One large lacerated wound on lower part of the left arm and left elbow measuring approximately 4" x 3" x bone depth.
- II. A lacerated wound on palm of right. Hand measuring 2" x 1" x muscle depth.
- III. Three bruises on right lateral aspect of upper neck.
- IV. One bruise on left side of neck.
- V. Trachea-congested and mud present. Lungs found congested."

In their opinion the cause of death was Asphyxia resulting from suffocation which was antemortem and Homicidal in nature.

26. This witness proved the Post Mortem Examination Report as Exhibit-9 and his signature therein as Exhibit-9/1 and also proved his signature in the Chalan as Exhibit-3/2. In his cross on behalf of all the accused-persons this witness stated that injuries on the left elbow and on the palm of the right hand of the deceased were found. On analysis of all aspects they gave opinion with regard to the death of the deceased. This witness denied the defence-suggestions that death of the deceased was accidental in nature or that he submitted a formal report.

27. The P.W.10 S.I. Md. Lutfur Rahman deposed that on 01.03.2009 he was attached to Shibalo P.S. On that date vide G.D.No.23 dated 01.03.2009 he recovered the dead body of a 8/9 year old girl. He held inquest on the dead body of a female child. He sent the dead body to the morgue for autopsy through constable Ali Hossain by a Chalan. This witness proved the Inquest Report as Exhibit-10 and his signature therein as exhibit-10/1. This witness also proved his signature in the Chalan as Exhibit-3/3. This witness further deposed that he found a blue colour skirt, white colour shocks, blue colour tie in which "Pacific Kinder Garten" was written, a yellow colour shopping bag with the name 'Nandan Fabrics', a black colour cap a black colour hand glove, a maroon colour handkerchief with the dead body. At the time of sending the dead body the deceased girl was wearing a yellow white colour banian, a blue colour half pant and a pair of white cad. He seized those materials under a Seizure List. This witness proved his signature in the Seizure-List as Exhibit-7/3. This witness also identified the alams in the Court. This witness further deposed that as per the requisition of the I.O.S.I. Shahadat he visited the place of occurrence, drew sketch map thereof with index separately and recorded the statements of the witnesses under section 161 of the Code of

Criminal Procedure. After getting the Post Mortem Examination Report with alamats, he sent all the seized alamats along with the Post Examination Report and other papers with a memorandum to Keraniganj Police Station. This witness proved the Sketch Map of the place of occurrence with index as Exhibits-11 and 12 and his signatures therein as Exhibits-11/1 and 12/1. In his cross on behalf of the accused Manik this witness stated that at about 9.00 a.m. the information came. As per instruction of the Officer-in-Charge he started for the place of occurrence from the police station at 9.30 a.m. in the morning and reached the place of occurrence at 10.00 a.m. The dead body was lying in a paddy field. Public brought the dead body from the paddy field to the pucca road. He prepared the Inquest Report on the road. The time of seizure was written to be 10.30 a.m. This witness denied the defence-suggestions that he did not get the alamats as mentioned in the Seizure-List with the dead body or that he deposed falsely.

28. The P.W.11 Md. Akkas Ali deposed that he had a pharmacy at Naya Kandi Nali Bazar. On 16.06.2009 police of karanigong police station went to 'Mondol Studio' and got photographs of the deceased and showed the photos to him. Those photos were in the Court. Police seized the photos under a Seizure-List. This witness proved the Seizure-List as Exhibit-13 and his signature therein as Exhibit-13/1. This witness also identified the photos as Material Exhibits-VII series. In his cross on behalf of all the accused-persons this witness stated that before seizure of the photos, those were shown to him. The photos were of a 8/9 year old girl. This witness denied the defence-suggestions that photos were not seized in his presence.

29. The P.W.12 Ratan Kumar Mondol stated in his deposition he was the owner of 'Mondol Studio' situated at Nali Bazar. On 01.03.2009 at about 10.00/10.30 a.m. he was called by the Paturia Police Bit to take snaps of a dead a body at Dutura village. He shot snap of a the dead body girl of 8/9 year old. On 06.04.2009 two police personnel of Keranigong Police Station went to his studio and got printed 3 (three) copies of the photo and seized the photos under a Seizure-List. He attested the same. This witness proved his signature in the Seizure-List as Exhibit-13/2 and identified the photos in the Court. He himself snapped the shots. In his cross on behalf of all the accused-persons this witness stated that police examined him. Before putting his signature in the Seizure List he read it. The witness denied the defence-suggestions that he did not take photos of the deceased or did not print them or that he deposed as per instruction of the police.

30. The P.W.13 Ahmadul Huda stated in his deposition that he was the manager of 'United Residential Hotel'. On 26.02.2009 at 9.30 p.m. a person named Badsha Mia giving identify of a girl of 8/9 year old to be his sister Shiuli stayed in their hotel. Saidman said he was from Tangail. He gave them booking in the room no.301 of the hotel. On 26.03.2009 police came to his hotel and asked as to whether one Badsha Mia and Shiuli stayed in his hotel or not. Perusing the register, he informed police that on 26.02.2009 a man stating his name to be Badsha Mia stayed in his hotel with a 8/9 year old girl giving her identity to be his sister Shiuli. Police seized the Register of the hotel under a Seizure-List which he attested as a witness. This witness proved the Seizure-List as Exhibit-14 and his signature therein as Exhibit-14/1. After seizure of the register, it was given to his custody. This witness proved the Deed of Custody as Exhibit-15 and his signature therein as exhibit 15/1. This witness further deposed that as per the order of the Court he brought the Register Book to the Court. In the serial number 21 of the page number 176 of the Register Book the name of the boarder was stated to be Badsha Mia of Motogram, Tangail, Sadar District-Tangail. The name of Shiuli was also written there. As per the register the boarder came to the hotel at 9.30 p.m.

This witness proved the Register Book as Material Exhibit-IX. This witness identified the accused Badsha Mia in the dock stating that he was wearing a red-black banian when he came to the hotel. This witness further stated in his deposition that he saw the little girl on that day. When Badsha Mia took the girl to the hotel the girl was covered with a towel and that she was sleeping. In his cross on behalf of all the accused-persons this witness stated that he was serving in the hotel as the manager since 15.08.2007. He himself filled up the columns of the register. In the Register Book the names of Badsha Mia and Shiuli were there and that Shiuli was shown to be the sister of Badsha Mia. He himself wrote the register. This witness denied the defence-suggestions that he was not the Manager of the hotel or that he created a Register Book or that on 26.03.2009 no room was vacant or that he deposed falsely.

31. The P.W.14 Md. Rajib deposed that he was the Supervisor of 'United Residential Hotel' situated at Savar. On 26.02.2009 at about 9.30 p.m. a taxicab driver came and asked as to whether there was any vacant room. On his asking, the driver informed that a child with her brother would stay in the hotel. Then he took them to the manager. A person gave his identity to be Badsha Mia and told the name of a 8/9 year old girl to be Shiuli. They stayed in the room no.301 of the hotel. On his shoulder the person took the girl to the room in sleeping condition. This witness identified the photo of the girl as Material Exhibit-VIII saying that the girl was brought by Badsha to the hotel. This witness identified the driver i.e. the accused Nurul Islam Munshi stating that he was wearing a lungi. The accused who was wearing red-black colour banian today (i.e. on the date of deposition of this witness) gave his identity to be Badsha (accused Manik). Police seized the Register of the hotel under a Seizure-List which he attested as a witness. When the accused wearing the red-black banian present in the dock was asked by the Court as to what his name was he disclosed his name to be Manik and that the accused who was wearing a lungi on asking by the Court disclosed his name to be Nurul Islam. This witness proved his signature in the Seizure-List as Exhibit-14/2. This witness further deposed that police examined him. In his cross on behalf of all the accused-persons this witness stated that he made statement to police. This witness denied the defence-suggestions that the accused-persons as mentioned by him did not go to their hotel or that he identified the accused-persons as per showing of the informant-side or that he deposed falsely.

32. The P.W.15 Md. Nurul Islam stated in his deposition that he was the member of ward no.4 of Sakta Union Parishad. The informant was a resident of that ward. On 26.02.2009 at 3.00 p.m. he went to the house of Swapan Ghose and came to learn that Anamika, the daughter of the informant was kidnapped away with a yellow taxicab from the road of west Bamansur graveyard. Hearing the news, he went to the house of the informant. The niece of Swapan, a 8/9 year old girl, on query, disclosed that the kidnappers told her to tell her father that Anamika was hijacked away. He saw the inmates of the house crying. He gave them consolation and asked them to search for the taxi. On that day at dusk he once again went to the house of the informant and on query, came to learn that Anamika was not found. Then he advised them to inform the police station of the matter. On that very day they went to the police station and filed the case. At night, police officer came. Thereafter, on 27.02.2009 he went to the house of the informant at about 10.00/11.00 a.m. and came to learn that kidnappers demanded Tk.10.00 lakhs as ransom money for the release of the victim girl holding out threat to the effect that if the demand was not met they would kill the girl. The kidnappers also held out threat to the effect that if the matter was informed to any one they would kill the victim Anamika. Thereafter, he went once again to the house of the informant on 27.02.2009 and on query, came to learn that the informant paid Tk.2.10 lakhs at a place behind the Ati Bazar Cinema Hall as per the instruction of the kidnappers. The kidnappers

informed that they would release the girl at 7.00-8.00 p.m. They kept waiting for Anamika but she was not found. On 01.03.2009 while he was going to the Upazilla Parishad he saw the informant and his brother with police in a police van. On his query, they informed him that a dead body was recovered at Manikgonj. At night he heard that the dead body of Anamika was brought to the house of the informant. Then he went to the house of the informant and the dead body was cremated. On 07.01.2009 at 7.30-8.00 p.m., a police officer went to the gate of the house of the accused Manik at Shikaritola. He also went there. On query, Manik admitted that by kidnapping Anamika, they killed her and he took Tk.1.27 lakhs from the realized ransom money. Police recovered said Tk.1.27 lakhs and the Motorola mobile phone used in the act of kidnapping from the accused Manik. On query, the accused Manik disclosed that the accused-persons Alauddin, Johni, Anwar, Narayan and taxicab driver (the accused Md. Nurul Islam Munshi) were involved in the occurrence of kidnapping. Police seized said the Tk.1.27 lakhs of ransom money and the Motorola mobile phone under a Seizure-List which he attested as a witness. This witness proved his signature in the Seizure-List as Exhibit-4/2. This witness further stated in his deposition that police examined him. He made statement to a Magistrate regarding the occurrence. This witness proved the statement made to the Magistrate by him as Exhibit-16 and his signature therein as Exhibit-16/1. This witness identified the accused-persons whose name he stated in his deposition. In his cross by the accused Manik, this witness stated that he made statement to police. He gave information of the kidnapping to the chairman 7.00 p.m. He went to the place from where Anamika was kidnapped. Anamika was known to him from before. Swapan told him that ransom money was demanded over mobile phone. After the dead body was brought from Manikgonj he went to the house of Sudharam Ghosh. The accused Manik was known to him from before. At about 7.00-7.30 p.m. he signed the Seizure-List. This witness denied the defence-suggestions that in his statement under section 164 of the Code of Criminal Procedure he did not say about his going to the house of the accused Manik or that the accused did not say that the accused-persons Alauddin, Narayan, Johni, Anwar and the driver were not involved in the occurrence or that Tk. 1.27 lakhs of ransom money or the mobile set was not recovered from the accused Manik. In his cross on behalf of the accused Johni this witness stated that he did not see directly the occurrence of kidnapping. This witness denied the defence-suggestions that he was not present at the time of seizure of the Motorola mobile phone or that he signed in a blank paper. In his cross on behalf of the accused Nurul Islam Munshi, this witness stated that the accused Narayan had committed suicide. This witness denied the defence-suggestions that Nurul accused Islam Munshi was not involved in the alleged occurrence. In his cross on behalf of the accused Anwar this witness stated that knowing about the occurrence the local M.P. came. He signed the statement he made to the Magistrate. This witness denied the defence-suggestions that the accused Manik did not mention the name of the accused Anwar or that he deposed falsely. In his cross on behalf of the accused Alauddin this witness stated that police recorded his statement as narrated by him.

33. The P.W.16 Md. Ashik stated in his deposition that he used to work as a security guard in a restaurant. 6/7 months before from now at 8.00/8.30 p.m. a taxicab came in front of the restaurant. At that time a lady was sitting in the taxicab. Then 4/5 police personnel dragged the driver out of the taxicab. 6/7 days after that police examined him. This witness was declared hostile by the prosecution. In his cross by the prosecution this witness stated that he signed the Seizure-List in respect of the mobile phone of the said taxicab driver. He did not know whether the name of the driver was Nurul Islam Munshi but he knew that the driver was apprehended. In his cross on behalf of the accused-persons this witness stated that he did not know as to why the taxicab driver was arrested.



34. The P.W.17 Arju Mia Benu stated in his deposition that he was the neighbor of the informant Sudharam Ghose. On 26.02.2009 at about 4.00-4.30 p.m. he came to know from Swapan that his niece Anamika was kidnapped away with a taxicab from in front of Bamansur graveyard. On 27.02.2009 he went to the house of Sudharam Ghosh and heard that the kidnappers demanded Tk.10.00 lakhs as ransom money for release of the victim. On 28.02.2009 at 5.00-6.00 p.m. he came to know that the ransom money was settled at Tk.2.10 lakhs and that the ransom money was paid behind the Ati Bazar Cinema Hall. On 01.03.2009 the dead body of Anamika was found at a place under Shibaloy Police Station. At 8.30 p.m. he saw the dead body of Anamika at the house of Sudharam Ghosh. Hearing that the accused Manik was arrested he went to his house. Many people in front of his house asked Manik with regard to the occurrence to which he admitted that he himself, Alauddin, Johni, Anwar and Narayan kidnapped the victim. He accompanied the police and the member to the house of the accused Manik. Police recovered Tk.1.27lakhs of the ransom money from an aluminium pot in the house of the accused Manik and also recovered a mobile phone and seized the money and the mobile phone under a Seizure-List. 98 nos. of Tk.1,000/- and 58 nos. of 5,000/- were recovered. He attested the Seizure-List. This witness proved his signature in the Seizure-List as Exhibit-4/3. This witness further deposed that thereafter police went to the house of the accused Anwar. They also accompanied police. There, police recovered a mobile phone and seized it under a Seizure-List. This witness proved the Seizure-List as Exhibit-17 and his signature therein as Exhibit-17/1. This witness further deposed that he made statement to a Magistrate. This witness proved the statement as Exhibit-18 and his signature therein as Exhibit-18/1. This witness also identified the accused-persons in the dock and identified the Motorola mobile phone as Maternal Exhibit-X. In his cross on behalf of the accused Manik this witness stated that he made statement to a Magistrate. He saw recovery of ransom money and a mobile phone. This witness denied the defence-suggestions that he did not go to the house of the accused Manik or that the Motorola mobile phone was not recovered in his presence or that he deposed falsely. In his cross on behalf of accused Johni Ghose this witness stated that the accused Johni Ghose was known to him. The accused named Narayan committed suicide. This witness denied the defence-suggestions that no money was seized and his presence or that being influenced by the informant he deposed falsely. In his cross on behalf of the accused Nurul Islam Munshi this witness stated that Narayan was known to Anamika and she used to call him 'kaka'. In his cross on behalf of the accused Alauddin this witness stated that a female Magistrate recorded his statement. This witness denied the defence-suggestions that he did not say the facts he said today to the Magistrate. In his cross on behalf of the accused Anwar this witness stated that he put his signature in the statement after he made it to the Magistrate. This witness denied the defence-suggestions that he stated the name of the accused Anwar as tutored by the informant or that the accused Manik did not mention the name of accused Anwar.

35. The P.W.18 Rabindra Nath Modak stated in his deposition that the informant was his neighbour. He was a baby taxi driver. On 26.02.2009, hearing that Anamika was not being found he went to the house of the informant and came to learn that while Anamika was returning home from school and reached at the west Bamansur graveyard she was kidnapped away in a taxicab by some persons. At that time her Younger sister Toma was with her. After going to the house, Toma informed about the occurrence. Thereafter, on search, Anamika having not found her father lodged the FIR in the police station. On the following day the kidnappers demanded Tk.10.00 lakhs as ransom money for release of the victim. Thereafter, through negotiation the ransom money was fixed at Tk.2.10 lakhs. On 28.02.2009 the brother of the informant went behind Ati Bazar Cinema Hall and kept the ransom money as instructed by the kidnappers. The kidnappers acknowledged the receipt of the ransom money

saying that they would release the victim Anamika. But they did not release the victim at night. On 01.03.2009 he came to know that the dead body of Anamika was found at a place under Shibaloy P.S. The father and uncles of Anamika brought her dead body from there with police. He was present at the time of cremation of the dead body of Anamika. 6/7 days after that he heard that the accused Anwar was apprehended. Hearing that he went to house of the accused Anwar where a mobile phone was recovered from him by police and police seized the mobile phone under a Seizure-List. He attested the seizure-list. This witness proved his signature in the Seizure-List as Exhibit-17/2. This witness identified seized mobile in the Court. This witness further deposed that on query, the accused Anwar disclosed that as per instruction of his maternal uncle he brought the ransom money. His maternal uncle paid him Tk.5,000/- as share. He also came to know that the accused-persons Alauddin, Manik, Johni, Anwar, Narayan and a driver kidnapped away Anamika. Police examined him. This witness identified the accused-persons in the dock. In his cross on behalf of the accused Manik this witness stated that he used to ply baby taxi from Atibazar to Kalabagan. This witness denied the defence-suggestions that the victim Anamika was not kidnapped away from Brahmonsur graveyard or that the kidnappers did not claim Tk.1,00,000/- lakhs as ransom money or that the kidnappers were not paid Tk.2.10 lakh as ransom money or that the accused-Anwar did not inform that the accused-persons Alauddin, Johni, Nurul Islam and Manik were also involved in the alleged occurrence or that he deposed falsely. In his cross on behalf of the accused Anwar this witness stated that at about 6.30-7.00 p.m. he signed the Seizure-List or that he did not go to the house of the accused Anwar or that he did not see the recovery of mobile phone or that he deposed falsely. In his cross on behalf of the accused Johni Ghosh this witness stated that he did not go for searching Anamika. The accused Johni Ghosh was known to him from before. The distance of the house of the accused Anwar from his house was ½ mile. This witness denied the defence-suggestions that the accused Johni Ghosh searched for Anamika or that being influenced by the informant he deposed falsely. In his cross on behalf of the accused Alauddin this witness stated that he made statement to police. This witness denied the defence-suggestions that the accused Alauddin was not involved in the alleged occurrence of kidnapping. In his cross on behalf of the accused Nurul Islam this witness stated that he heard that the accused Narayan committed suicide voluntarily. The victim Anamika was known to him. This witness denied the defence-suggestions that he deposed as tutored by police or the informant.

36. The P.W.19 Md. Abul Naser, the principal, 'Pacific Kinder Garten School', Bamonsur Karanigonj, Dhaka, stated in his deposition that there was examination in the Pacific Kinder Garten School on 26.02.2009. After examination Anamika Ghosh and Toma Ghose were returning home with other students. On that day as Anamika did not return home, her guardian came to their school and informed that Anamika did not return home. Thereafter, at 3.00-3.30 p.m. he came to know that while Anamika was returning home from school she was kidnapped away. Hearing that, he went to the place of occurrence and so also to the house of the informant. After going there, he came to know about the occurrence. On the following day he came to know from the guardians that kidnappers demanded ransom money for release of Anamika. He also came to know that through negotiation with the kidnappers ransom money was paid to them. Thereafter, on 01.03.2009 he came to know that the dead body of Anamika was found at a place under Shibaloy Police Station. He along with his two colleagues came to the house of Anamika. Police examined him. Anamika appeared in the examination as a student of class-III in their school. Her roll number was 33 and her section was Zenia. Before she was kidnapped she appeared in 5 examinations. He brought the answer scripts dated 22.02.2009, 23.02.2009, 24.02.2009, 25.02.2009 and 26.02.2009 to the Court. He identified the answer scripts as Exhibits-I/A series. This witness further stated he

brought the attendance register of section-Zenia, class-III. According to that register Anamika was present in the school. This witness proved Register as Exhibit-20. In his cross on behalf of the accused the Manik this witness stated that class of the school usually started at 9.00 a.m. and continued up to 5.20 p.m. Anamika was a child. At 3.00-3.30 p.m. he came to know about kidnapping of Anamika from father Durga. He heard about payment of ransom money. To mark sorrow for the death of the victim he suspended class of his school for one day. Police examined him in the school. This witness denied the defence-suggestions that being influenced by the informant he brought the register of the school or that no occurrence as narrated by him took place.

37. The P.W.20 Toma Ghosh (8) being a minor girl of 8 years of age, the trial Court tested her understanding ability first by putting some questions to her to the effect that what was the name of her school, what class, she read in and how many brothers and sister she had to which she replied that she was a student of Pacific Kinder Garten School, she read in class-III and that she had 2 brothers and one sister. Thereafter, the trial Court recorded her deposition. In her deposition Pw20 Toma Ghosh stated that on 26.02.2009 she along with Anamika went to the school to appear in the examination. After examination she along with Anamika and Sadia were returning home. When they reached near the graveyard then a person asked Anamika as to what was her name. In reply, Anamika said her name to be Anamika. Thereafter, the man asked Anamika's father's name. In reply Anamika told that her father's name was Sudharam Ghosh. That person told Anamika that he used to perform business with her father and he requested Anamika to take him to their residence. At that time a person was standing in front of the taxicab. Anamika was taken away by the taxicab. The person standing in front of the taxicab asked her as to what was her relation with Anamika to which she told him that Anamika was her cousin sister. The man told her that her sister was kidnapped away and she should tell her father and uncle about the act of kidnapping. Then she came to their house and informed her father and uncle about the kidnapping. Police came at night and examined her. Police examined her on the following day as well pointing to the accused no.4 standing from the west to the east in the dock this witness stated that said person in the dock made query to her on the date of occurrence. On query by the Court, said accused no.4 standing in the dock disclosed his name to be Alauddin. This witness further deposed that the kidnapers killed her sister and she saw her dead body. She sought justice for the killing of the victim Anamika. This witness was not cross examined on behalf of accused-persons Anwar and Manik. In her cross on behalf of the accused Alauddin this witness stated categorically that none identified the accused Aladdin in to her. She herself identified him. The accused Alauddin was standing on the road. On that date the subject was social science. This witness denied the defence-suggestions that neither she or Anamika went to school for appearing in the examination. This witness also denied the defence-suggestions that her father identified the accused Alauddin to her. This witness was not cross examined on behalf of the accused Nurul Islam. In her cross on behalf of the accused Johni Ghosh when she was asked as to who used to sit beside her in the class, this witness became morose. In her cross on behalf of the accused Johni Ghosh this witness also stated that they started for the school at 11.30 a.m. This witness denied the defence-suggestions she was not a student of class-III.

38. The P.W.21 Nazia Nahid stated in her deposition that on 08 .03.2009 while she was the Metropolitan Magistrate, 3<sup>rd</sup> Court, Dhaka, recorded the confessional statement of the accused Manik after observing all formalities under sections 164 and 364 of the Code of Criminal Procedure. After recording the statement she read over the statement to the accused to which he put his signature in the statement admitting the contents thereof to be true. She appended certificate to the effect that the statement was true and voluntary. This witness

proved the confessional statement of the accused Manik as Exhibit-21, her signatures therein as Exhibits-21/1 series and the signatures of the accused Manik therein as Exhibits-22 series.

39. This witness further deposed that on 08.03.2009 she recorded the confessional statement of the accused Anwar after observing all the formalities under sections 164 of the Code of Criminal Procedure. After recording the statement she read over the statement to the accused to which he put his signature therein admitting the contents thereof to be true. She appended certificate to the effect that the statement was true and voluntary. This witness proved the confessional statement of the accused Anwar as Exhibit-23, her signatures therein as Exhibits-23/1 series and the signatures of the accused Anwar therein as Exhibits-24 series.

40. This witness further deposed that on 08.03.2009 she recorded the confessional statement of the accused Md. Alauddin after observing all the formalities under sections 164 of the Code of Criminal Procedure. After recording the statement she read over the statement to the accused to which he put his signature therein admitting the contents thereof to be true. She appended certificate to the effect that the statement was true and voluntary. This witness proved the confessional statement of the accused Md. Alauddin as Exhibit-25, her signatures therein as Exhibits-25/1 series and the signatures of the accused Anwar therein as Exhibits-26 series.

41. This witness further deposed that on 08.03.2009 she recorded the confessional statement of the accused Johni Ghosh after observing all the formalities under sections 164 of the Code of Criminal Procedure. After recording the statement she read over the statement to the accused to which he put his signature therein admitting the contents thereof to be true. She appended certificate to the effect that the statement was true and voluntary. This witness proved the confessional statement of the accused Md. Alauddin as Exhibit-27, her signatures therein as Exhibits-27/1 series and the signatures of the accused Md. Alauddin therein as Exhibits-28 series.

42. This witness further deposed that on 08.03.2009 she recorded the confessional statement of the accused Nurul Islam after observing all the formalities under sections 164 of the Code of Criminal Procedure. After recording the statement she read over the statement to the accused to which he put his signature therein admitting the contents thereof to be true. She appended certificate to the effect that the statement was true and voluntary. This witness proved the confessional statement of the accused Nurul Islam as Exhibit-29, her signatures therein as Exhibits-29/1 series and the signatures of the accused Nurul Islam therein as Exhibits-30 series.

43. This witness further deposed that on 09.03.2009 she recorded the statement of the witness Md. Kamruzzaman under section 164 of the Code of Criminal Procedure. After recording the statement she read over the statement to the witness to which he put his signature therein admitting the contents thereof to be true. This witness proved the statement of the witness Md. Kamruzzaman as Exhibit-32 and her signature therein as Exhibit-31/1.

44. This witness further deposed that on 09.03.2009 she recorded the statement of the witness Md. Alam under section 164 of the Code of Criminal Procedure. After recording the statement she read over the statement to the witness to which he put his signature therein admitting the contents thereof to be true. This witness proved the statement of the witness Md. Alam as Exhibit-31 and her signature therein as Exhibit-32/1.

45. This witness further deposed that on 08.04.2009 she recorded the statements of the witnesses Md. Nurul Islam, Sree Durga Charan and Arzoo Mia under section 164 of the Code of Criminal Procedure. This witness proved the statements of the said witnesses as Exhibits-6, 16 and 18 and her signatures therein as Exhibits-6/2, 16/2 and 18/2.

46. In her cross on behalf of the accused Md. Alauddin this witness stated that she did not fill up some part of the statement. Her peon brought the accused to her. In paragraph no.6 she took the statement of the accused. This witness denied the defence-suggestions that she did not give sufficient time for speculation to this accused or that the accused did not make any confessional statement. In her cross on behalf of the accused Nurul Islam this witness stated that this witness stated that she started recording the statements at 3.00 p.m. This witness denied the defence-suggestion that she did not give sufficient time for speculation making statement to this accused. In her cross on behalf of the accused Johni Ghosh this witness stated that after recording the statements of the confessing accused-persons they were sent to the jail at 6.00 p.m. She explained the subjects of the column no.5 to the accused. After recording the statement of the accused when it was read over to him he put his signature therein admitting the contents to be true. This witness denied the defence-suggestions that she did not comply with the provisions of sections 164 and 364 of the Code of Criminal Procedure or that the accused did not put his signature in the statement in his presence. In her cross on behalf of the accused Anwar this witness stated that the time of completion of recording the statement was not noted in the statement. This witness denied the defence-suggestions that the accused-persons did not make confessional statements or that the statements were not voluntary or product of torture. In her cross on behalf of the accused Manik this witness stated that in the statement of this accused the name of the peon Borhan was written. This witness denied the defence-suggestions that the signature appearing in the name of Manik was not his or that she did not give sufficient time for speculation to this accused or that the accused Manik did not make the statement voluntarily or that she did not record the statement properly.

47. The P.W.22 S.I. Md. Shahadat Hossain Khan, the investigating Officer of the case stated in his evidence that on 26.02.2009 he was attached to Karnaiganj P.S. as an S.I. On that after starting the case the Officer-in-Charge (O.C.) entrusted the charge of investigation with him. The signature of the O.C. was known to him. This witness proved the FIR Form as Exhibit-33 and the signature of the O.C. therein as Exhibit-33/1. This witness further deposed that during investigation he visited the place of occurrence, drew Sketch Map thereof with index, recorded the statements of the witnesses under section 161 of the Code of Criminal Procedure. This witness proved the Sketch Map of the place of occurrence and the Index as Exhibits-34 and 35 and his signatures therein as Exhibits-34/1 and 35/1. This witness further deposed that on 27.02.2009 after the FIR was lodged, the kidnappers demanded Tk.10.00 lakhs as ransom money over mobile phone. He collected the call list of the mobile phone. With that mobile phone the kidnappers made communication with the concerned mobile phone on 28.02.2009. He collected the call list of the said mobile phone and perused it. On 01.03.2009 the informant came to the police station and informed that the Officer-in-Charge of Shibaloy P.S. informed him over mobile phone that a dead body of an unknown 9 year old girl was found and that on the said dead body there were school dress and tie where 'Pacific Kinder Garten' was written. On the basis of that information he himself, the informant and his brother started for Shibaloy P.S. On the way, they came to know that the dead body was taken to Manikganj Sadar Hospital. They went to Manikganj Sadar Hospital where the informant identified the dead body to be of his daughter Anamika. After post mortem examination on the dead body of the victim they came to Keraniganj P.S. along with the dead

body and relevant papers. He handed the dead body of the deceased to the informant for cremation. On 28.02.2009 the mobile phone of the kidnappers being switched off, he collected the IMEI of the mobile phone. He collected the call list of the mobile phone and perused it. On 07.03.2009 he arrested the accused Nurul Islam Munshi from in front of Gulshan-2 Top Capi Hotel. He arrested the said accused with a taxicab. He recovered the mobile set he was keeping and seized it. The number of the mobile was 0192475331. He seized the taxi-cab as well. This witness proved the Seizure List as Exhibit-36 and his signature therein as Exhibit-36/1. This witness further deposed that he brought the accused Nurul Islam Munshi to Karaniganj PS. and interrogated him. On query, this accused disclosed the names of the other accused-persons involved in the alleged occurrence. As per the information given by this accused, he arrested the accused-persons Johni Ghosh, Alauddin, Manik and Anwar Hossain. On 07.03.2009 he recovered a Huawei Mobile set from the accused Johni Ghosh. He recovered the SIM bearing no. 01196137697 used in the mobile. From the accused Anwar he recovered a Motorola Mobile set having SIM no. 01197178619 and seized it. As per the admission and showing of the accused Manik he recovered Tk.1,27,000/00 of the ransom money kept in a silver pot from the rack of the residence of the accused of the accused Manik. Among the recovered money there were 98 nos. of 1,000/00 taka note, 58 nos. of 500/00 taka note. He recovered the Motorola Mobile Set C 168 having SIM no. 01919459324 used by the accused Manik under a Seizure List. This witness proved his signatures in the Seizure Lists as Exhibit-8/2, 17/3 and 4/4. He sent the accused-persons to the Court for recording their confessional statements. The accused-persons Md. Manik, Johni Ghosh @ Johna made confessional statements voluntarily. He perused the Post Mortem Examination Report along with other papers. On 26.03.2009 at 11.40 a.m. he seized the Boarder Register Book from the Manager of United Residential Hotel. On perusal of the said Register Book, it appears that by changing his name to be Badsha and giving identity of the victim to be Shiuli he came to the hotel. This witness proved his signature in the Seizure List in respect of the Register Book as Exhibit-14/3. This witness further deposed that he gave the Register Book to the custody of the manager. On 29.03.2009 he seized a Motorola Mobile Model C.E.-0168 bearing SIM No. 01720425045 under Seizure List as presented by the brother of the informant. The kidnappers made correspondences with the said mobile phone. On 06.04.2009 at 15.10 hours he seized full and half size photo graphs of the victim Anamika Ghosh from the Nalabazar Model Digital Studio and Audio centre. This witness proved his signature in the Seizure List as Exhibit-13/3. This witness further deposed that he sent five witnesses to record their statement under section 164 of the Code of Criminal Procedure. After investigation, prima-facie case having been made out against the accused-persons Md. Manik, Johni Ghosh @ Johna, Anwar Hossain @ Anwar, Noor Islam and Md. Alauddin, he submitted Charge Sheet No.91 dated 25.04.2009 under sections 7/8/30 of the Nari-O-Shishu Nirjatan Daman Ain,2000 (Amended in 2003) and under sections 302/201/34 of the Penal Code against them. This witness identified the accused-persons in the dock arrested by him in connection with the case. In his cross on behalf of the accused Manik this witness stated that he joined his service on 10.03.2006 and joined Keraniganj Police Station in July, 2008. He went to the place of occurrence on 27.02.2009 at 10.45 a.m. 'B' of the Sketch Map was Bamansur Graveyard. He advised the informant to file the case. He recorded the statement of the witness Ashique on 13.03.2009. He recorded the statement of Toma Ghosh on 27.02.2009. He took her to the place of occurrence at 12.05 p.m. On that date, he recorded the statement of Sadia as well on that date. Toma Ghosh used to prosecute her studies in 'Bamansur Pacific Kinder Garten'. He recorded the statements of the witnesses Md. Abu Nasir Uddin, Sadhu Ghosh and Md. Rajib on 04.03.2009, 10.03.2009 and 26.03.2009 respectively. The witness Md. Rajib stated in his statement that the accused Manik stayed in the hotel mentioning his name to be Badsha and mentioning the name of the victim to be

Shiuli. About 8 days after the occurrence, the accused-persons were arrested. On 07.03.2009 he first of all arrested the accused Nurul Islam from 'Gulshan Topcapi Restaurant'. He arrested the accused Manik on 07.03.2009 at 17.30 hours from his residence at Shikaritola. At the time of arrest when the accused Manik tried to decamp he sustained injury. He got the accused medically treated. At the time of arrest of the accused Manik, his mother and wife were in the house. He went to 'Pacific Kinder Garten', the school of Anamika Ghosh. Abu Naser was the head of the school. The dead body of the victim was recovered from a paddy field. He perused the Inquest Report. He recovered ransom money and Motorola mobile set bearing no.01919459324. Giving the name of Badsha, the accused Manik stayed in the hotel. He prepared the deed of custody. This witness denied the defence-suggestions that Naser was not the principal of the school or that the money which he recovered from the accused Manik was not the ransom money or that he did not take out the investigation properly. In his cross on behalf of the accused Alauddin this witness stated that he arrested the accused Alauddin on 07.03.2009 at 17.30 hours from his house. After arrest of the accused Manik, he disclosed the names of the other accused-persons. This witness denied the defence-suggestions that the accused Alauddin was not involved in the alleged occurrence or that he compelled the accused Alauddin to make confessional statement by torture or that his investigation was not proper. In his cross on behalf of the accused Johni Ghosh this witness stated that during investigation he went to the place of occurrence situated at Bamansur. Toma identified the place of occurrence to him. On 28.03.2009 the informant informed that he was called from a mobile phone. This witness denied the defence-suggestions that out of presumption he involved the accused Johni Ghosh in the case or that by way of torture he compelled the accused Johni Ghosh to make confessional statement or that the accused Johni Ghosh was innocent or that he deposed falsely. In his cross on behalf of the accused Noor Islam, this witness stated that during investigation he seized a taxicab bearing no. Dhaka Metro: Ka-111440. The accused Noor Islam admitted that with the said taxi-cab the victim Toma was taken to 'United Residential Hospital' at Savar. This witness denied the defence-suggestions that the accused Nurul Islam did not drive the taxicab or that by way of torture confessional statement of the accused Nurul Islam was procured or that being influenced, he entangled the accused Nurul Islam in the case.

48. So, this is the evidence adduced by the prosecution to substantiate its case. Now, on scrutiny of the evidence on record, let us see as to whether the prosecution had been able beyond all shadow of doubt to bring home the charge as brought against the condemned-accused-prisoner and the other convicted-accused-persons and also to find out whether the impugned judgment and order of conviction and sentence is sustainable in law.

49. From the evidence of the Pw1 Sudharam Ghosh, the Pw2 Sree Nanda Gopal Ghosh, the Pw4 Sree Durga Charan Ghosh, the Pw7 Shyam Dulal Ghosh, the Pw8 Sadhu Ghosh, the Pw13 Ahmadul Huda, The Pw14 Rajib, the Pw15 Md. Nurul Islam, the Pw17 Arzoo Mia, the Pw18, the Pw19 Md. Abul Naser, the Pw20 Toma Ghosh (8), it is evident that on 26.02.2009 at 1.40 p.m., while the victim deceased Anamika Ghosh along with the Pw20 Toma Ghosh (8) and Sadia were returning home after appearing in the examination in the 'Bamansur Kinder Garten School' reached in front of the road of 'West Bamansur Graveyard', the accused-persons kidnapped Anamika Ghosh away by a yellow taxicab and subsequently, the dead body of the victim Anamika Ghosh was found in a paddy field under Shibaloy Police Station, Manikganj on 01.03.2009. On 27.02.2009, the accused-persons demanded Tk.10.00 lakhs as ransom money for the release of the victim Anamika Ghosh which was settled at Tk.2.10 lakhs through negotiation. The informant paid the money through the Pw2 Nanda Lal Ghosh. The accused Anwar Hossain collected the money as per instruction of the accused

Manik and that the accused Anwar Hossain received Tk.5,000/00 for collection of the money. The accused-persons acknowledged the receipt of the money through mobile phone call assuring that they would return the victim Anamika Ghosh to her father. In the process the accused Md. Manik stayed in the 'United Residential Hotel' at Savar giving his false name to be Badhsa Mia and that of Anamika to be Shiuli. Despite realizing the ransom money, instead of returning the victim Anamika to her father, the informant, the accused Md. Manik killed her and to conceal the dead body of the victim buried it under heaps of soil in a IRRRI paddy field. On 01.03.2009 the dead body, of the victim Anamika was recovered. After 5/6 days of the recovery of the dead body the accused-persons were arrested and a part of the ransom money i.e. Tk.1,27,0000/00 was recovered from the residence of the accused Manik as per his admission and showing and that the mobile phone sets used in the act of killing were recovered. The accused-persons Manik, Johni Ghosh admitted that the accused-persons Manik, Johni Ghosh, Alauddin, Anwar, Nurul Islam kidnapped away the victim Aanamika Ghosh and subsequently, killed her. The Pw3 Md. Ali Hossain took the dead body of the deceased to the morgue for autopsy. This witness identified the alamats viz, a pair of cads, blue colour half pant and yellow white banyan the victim was wearing at the time of occurrence. The Pw5 Kazi Abdur Razzak went to the IRRRI paddy field on the basis of information and saw the dead body of the victim-child wearing school dress. As per his information police came and took photoss of the dead body and seized the alamats viz, tie with school-monogram, white shoes and white shocks, a school bag of the victim-girl. The pw6 Md. Majibar Rahman in his evidence stated that on 01.03.2009 he saw the dead body of the victim-girl; that the navy blue shirt, tie, white shoes, shocks the victim was wearing at the time of occurrence and the bag of the victim were seized in his presence. The pw9 Dr. Md. Halimullah held post mortem examination on the dead body of the victim-deceased. This witness stated in his evidence that in their opinion the death of the deceased was due to Asphyxia resulting from suffocation which was ante mortem and homicidal in nature. Said statement of the Pw9 support the confessional statement of the condemned-prisoner Manik that by throttling he killed the victim Anamika. The Pw10 S.I. Md. Lutfor Rahman recovered the dead body of the victim-deceased and held inquest on the body, sent the dead body of the deceased for autopsy, seized the alamats viz. blue colour skirt, white colour shocks, blue colour tie with the inscription 'Pacific Kinder Garten', the victim-girl was wearing at the time of the occurrence and a white colour shopping bag, a blue colour cap, a black colour cap under seizure list, visited the place of occurrence, recorded statements of some of the witnesses and sent the dead body for autopsy. The Pw11 Md. Akkas Ali the seizure list (Exhibit-13) witness in respect of the three photoss (Material Exhibits-VII series) of the victim-deceased, stated in his cross that before seizure of the photos those were shown to him. The Pw12 Ratan Kumar Mondol took photoss of the victim with his camera and printed the photoss. This witness proved the seizure list in respect of the photoss of the victim-deceased and identified those in the Court. The Pw20 Toma Ghosh (8) a direct eye-witness to the alleged occurrence gave a vivid description of the alleged occurrence in her evidence stating specifically that the victim was kidnapped away in her presence from the place of occurrence by a taxicab. This witness identified the accused persons Manik and Alauddin in the dock. Further, the Pw20 Toma Ghosh being a minor girl of 8 years of age she was not supposed to know the accused-persons Manik and Alauddin from before. The Pw21 Nazia Nahid recorded the confessional statements of the five accused-persons. She stated in her evidence that after observing all legal formalities she recorded the confessional statements of the accused-persons; that after the confessional statements were recorded she read over the statements to the accused-persons whereon they put their signatures therein admitting the statements to be true; that she appended certificates to the effect that the statements were voluntary and spontaneous; that there was no allegation of torture, influence or coercion by



police for making the confessional statements; that she rightly forwarded the accused-persons to the jail custody after recording their statements. In this case an objection was raised on behalf of the defense to the effect that in all the confessional statements the starting time of recording the statements was stated to be 3.00 p.m. and the sending time of the accused-persons to the jail custody was stated to be 6.00 p.m.’; that recording of the five confessional statements at the same time and the recording of the statements at the same time i.e. 6.00 p.m. is absurd and as such, the confessional statements cannot be believed. From the materials on record, it transpires that five accused-persons were forwarded to the Magistrate by a single forwarding. Further, The Pw21 stated categorically in her cross that she recorded the statements one by one. So, the question as to how she recorded the confessional statements of the five accused-persons at the same time does not arise. From her evidence it is found that no police personnel was present at the time of recording the statements, rather, only a peon was present. The accused-persons were brought to her at 12 ‘O’ clock noon. So, if she gave 3.00 hours’ time for speculation to the accused-persons, naturally she started recording the statements at 3.00 p.m. On perusal of the confessional statements of the accused-persons, it appears that the statements are very short. So, it was very much possible for the Pw21 to record the confessional statements of the five accused-persons within the span of three hours’ time. The Pw22, the Investigating Officer S.I. Md. Shahadat Hossain Khan stated in his evidence that during investigation he visited the place of occurrence, drew sketch map thereof with index, recorded the statements of the witnesses, did mobile tracking of the accused-persons, got the confessional statements of the accused-persons recorded under section 164 of the Code of Criminal Procedure by a Magistrate, recovered a portion of ransom money worth Tk.1,27,000/00 as per admission and showing of the accused Manik from his residence, seized the alams of the case and that after investigation prima-facie case having been made out against the accused-persons, submitted charge sheet against them. From the evidence of the Pw22, he appears not to have committed any illegality or irregularity in taking out investigation of the case. Further, from the cross examination of the Pws, the accused-persons could not extract anything favourable to them.

50. In this case, apart from the evidence of the prosecution witnesses, there are the inculpatory confessional statements of the condemned-prisoner Md. Manik Mia, the convict accused-persons Md. Anwar Hossain, Md. Alauddin, Johni Ghosh and Md. Nurul Islam.

51. The condemned-prisoner Md Manik Mia in his confessional statement gave a vivid description of the perpetration of the alleged occurrence with reference to time, place and manner thereof. Said condemned-prisoner stated in his confessional statement that “as per the pre-plan they picked up the victim girl from the school and detained her. Narayan, Johna (Johni) and Alauddin were with him. With the girl he boarded in a hotel and demanded ransom money from the father of the victim girl for her release. The father of the girl paid them Tk.2.10 lakhs as ransom money as per their claim. He got Tk.2.10 lakhs. After getting the money he went to Aricha Road taking the girl with him. He wanted to release the girl but Narayan told him that the girl could identify him and as such, she should be killed. In this way, holding out treat in different ways they took the girl to Paturia. While taking the girl to a paddy field in his lap, the girl fell down and screamed. When the girl screamed, he killed her by throttling. Thereafter, they buried the girl under soft wet earth and came back and communicated with each others. Money was with him. After expenditure, he had Tk.1.07 lakhs with him.”

52. The convict-accused Md. Anwar Hossain stated in his confessional statement that “the accused Manik was his maternal uncle. He informed him about the plan and asked him to

fetch the money (ransom money). On the first date the accused Manik could not kidnap the girl. Sitting for a long time, he came back. On the following day they went to kidnap the girl. In the evening of Thursday, he made mobile phone call to Manik whereon he informed that Narayan brought the girl and went away and that the girl was with her. On the following day i.e. on Friday, Manik made a mobile phone call asking him to fetch money from near 'Ati Bazar'. On that date he came back due to presence of police. On Saturday at 4.00 p.m. he brought Tk. 2.10 lakhs from near 'Ati Bazar Hall'. On the following day Manik paid him Tk.5,000/00."

53. The convict-accused Md. Alauddin stated in his confessional statement that "Manik proposed him to kidnap the daughter of Sudha Babu. In this way, Narayan chalked out the plan. First of all he became afraid. Manik asked him to keep a look at the area saying that they will do the main task. In this way, one day Manik and Narayan went near the school of the girl with a transport. He along with Johni remained in the area and gave all informations to Manik. On that day they could not kidnap the girl. On the following day Manik and Narayan went to the school to bring the girl. They were in their house. Near the grave yard, on the pretext of going to the father's house of the girl, they kidnapped the victim by a transport. Through mobile phone to Manik, he came to know about the occurrence of kidnapping. At 9.00 p.m. Manik informed him that Narayan had decamped as the girl could identify him. They then chalked out plan that either they would take poison or return the girl. He then made phone call to Manik. Then Manik had the girl with him. Manik did not disclose his location. He asked Manik to bring the girl. In reply, Manik disclosed that he brought the ransom money through his nephew. Thereafter, Manik met him at Bamansur dam and disclosed that he killed the girl."

54. The convict-accused Johni Ghosh @ Johna stated in his confessional statement that." they (the accused-persons) chalked out plan to the effect that they would kidnap the daughter of Sudha Babu and would demand ransom money from him. He along with Alauddin gave all informations about the girl from the locality. Manik and Narayan chalked out plan to kidnap the girl from the school. The accused-persons Manik and Narayan Kidnapped away the victim girl from in front of the graveyard. Firstly, although they did not agree to the plan, subsequently agreed to the plan when Manik said that they would kidnap the girl, realize Tk.10.00 lakhs from Sudha Babu and that they would have to give information only. At the time of kidnapping they were in the locality. Thereafter, Manik himself kept the girl and money. Manik collected the ransom money through his nephew. Manik made mobile phone call to Alauddin and informed that he had killed the girl. He came to know it from Alauddin."

55. The convict-accused Md Nurul Islam stated in his confessional statement that "on the date of occurrence, the accused-persons Manik and Narayan hired his taxi. At Tk.5,000/00 he entered into an agreement with Manik that he would reach them to Mymensingh. He started with them for Mymensingh. The girl was the niece of Narayan. Thereafter, seeing police near Tangail, they came back to Savar. Narayan escaped by Savar-Bypass. Leaving Manik and the girl at a hotel in Savar, he went away at 9.00 p.m. Manik paid him Tk.3,000/00 and Tk. 500/00 for gas. Thereafter, on Thursday Manik paid him another Tk.1,000/00. Subsequently, getting mobile phone call from a madam when he came to take the madam, he was apprehended by police."

56. On perusal of the three confessional statements of the aforesaid accused-persons, it is crystal clear that said statements corroborate each other and that they are just reflection of one another. From the materials on record, it is also found that after commission of the

offence, out of repentance, the accused Narayan committed suicide which suggests the truth of the commission of the occurrence by the accused-persons. The pw21, the recording Magistrate annexed certificates to the effect that after the accused-persons were given three hours' time for speculation, their confessional statements were recorded which appeared to her to be true. It appears further from the confessional statements that at any stage of recording the confessional statements, it did not appear to the pw21 that the statements were not voluntary (Reference: the clause no.9 of the statements) and she also appended certificates to the effect that the five confessional statements were voluntary. On perusal of the confessional statements, it further transpires that before making confessional statements the accused-persons did not make any complaint of torture, coercion or inducement against police. It also transpires that the accused-persons were produced before the Magistrate within 24 hours of their arrest and that they were not even required to be taken on remand. Immediately after their production before the Magistrate, they made confessional statements. So, there arise no question of torturing or adopting any coercive measure to secure the confessional statements from the accused-persons. On perusal of the confessional statements of the condemned-accused-prisoner and the other convict-accused-persons, it further transpires that they made the statements implicating themselves directly in the occurrence. As stated earlier, the Pw 21 Nazia Nahid, the recording Magistrate stated in her evidence that in compliance with the provisions of law she recorded the confessional statements of the confessing accused-persons; that she certified the confessional statements are true and voluntary; that the confessing accused-persons put their signatures in the confessional statements in her presence. Remarkably, in this case no suggestions whatsoever was given on behalf of the defence to the pw21 to the effect that under duress, torture, intimidation or by inducement the confessional statements of the accused-persons were secured. On perusal of the confessional statements, no irregularities or illegalities in recording the statements are found. So, there is no difficulty to come to a finding that the confessional statements of the condemned-accused-prisoner and the other convict-accused-persons are voluntary and true and that the said statements may well form the basis for conviction of the accused-persons. In the case of Islamuddin (Md) alias Din Islam versus The State reported in 13 BLC (AD) at page 81 in our Apex Court held that "It is now the settled principle of law that judicial confession if is found to be true and voluntary can form the sole basis of conviction against the maker of the same".

57. In view of the discussion made so far, this court finds that the confessional statements (Exhibits-21, 23, 25,27,27) of the condemned-accused-prisoner and the other convict-accused-persons are true, inculpatory and voluntary and said statements are sufficient to find them guilty in this case. From the record, it appears that the accused Manik retracted his confessional statement on 26.04.2008, the accused Alauddin retracted the confessional on 27.04.2009, the accused Anwar retracted confessional statement on 27.04.2009, the accused Anwar retracted confession on 27.04.2009 stating that police by force extracted the confessional statements. The said retraction petitions show that said petitions did not come through the concerned Jailor. Retraction petitions of the accused-petitioners Alauddin and Anwar have been written by their learned Advocates, not by the said Accused-persons. Further, said retraction-petitions having been made 1 ½ months after making the confessional statements, they are nothing but the result of afterthought and cannot be accepted. It has already been found that the confessional statements as made by the accused-persons are true and voluntary. It is the settled law that "Confessional statement whether retracted or not, if found voluntary can form the sole basis of conviction of the maker (Reference: Hazrat Ali and another versus State)."

58. In this case, the confessional statements of the accused-persons, the evidence of the Pws including the evidence of the Pw 20 Toma Ghosh, direct eye-witness to the alleged occurrence and the statements of the witnesses i.e. the Pw4 Sree Durga Charan Ghosh, the Pw 15 Md. Nurul Islam and the Pw 17 Md. Arzoo Mia under section 164 of the Code of Criminal Procedure corroborated the prosecution case. From the evidence on record, it is also seen that mentioning falsely his name to be Badsha and falsely mentioning the name of the victim Anamika to be Shiuli, the accused Manik boarded a hotel at Savar. The accused Nurul Islam assisted the accused Manik saying that a brother with his sister would stay in the hotel. From the materials on record, it is also found that the accused-persons ManiK, Narayan, Johni and Alauddin chalked out plan of kidnapping the victim sitting at Shikaritola and that the taxi driver who entered into a contract with the accused Manik to take them with the victim to Mymensingh at Tk.5,000/00 also was involved in the kidnapping. The day before the occurrence, all the accused-persons waited for kidnapping the victim but could not kidnap the victim on that date. On the following day, they succeeded in kidnapping the victim girl. The accused-persons Alauddin and Johni Ghosh were involved in the alleged occurrence is manifest from the confessional statements of these accused-persons and the statements under section 164 of the Code of Criminal Procedure of three witnesses i.e. the pw4, the pw15 and the Pw 17 and the evidence of the eye-witness Toma. From the evidence of the Pw2 Sree Nanda Gopal Ghosh, the Pw4 Sree Durga Charan Ghosh, the Pw8 Sadhu Charan Ghosh and the Pw15 Nurul Islam, it appears that in addition to making the confessional statements, the accused-persons Johni Ghosh and Manik also made extra judicial confessions. The Pw 2 Sree Nanda Gopal Ghosh stated in his evidence that the accused Johni admitted that they themselves kidnapped Anamika, the victim and that the accused-persons Manik, Alauddin, Nurul Islam and Narayan were also involved in the alleged occurrence. The Pw 4 Sree Durga Charan Ghosh stated in his evidence that in their presence, the accused Manik admitted that they kidnapped Anamika; that he collected the ransom money through his nephew, the accused Anwar and that they killed the victim Anamika by throttling at a place under Shibaloy P.S. This witness further stated that the accused ManiK disclosed the names of the accused-persons Johni Ghosh, Alauddin, Nurul Islam and Narayan also to be involved in the alleged occurrence. The Pw 8 Sadhu Charan Ghosh stated in his evidence that the accused Johni Ghosh in his presence stated that he himself, Manik, Alauddin, Anwar , Narayan and the driver together kidnapped the victim Anamika, realized ransom money and killed her. It is the established principle of law that a conviction can be rested on extra judicial confession subject to the fact that such statements are corroborated by other materials on record.(Reference: the case of State versus Moslem reported in 55 DLR at page 116). In this case the materials on record support the extra-judicial confessional statements of the accused-persons. It is also the established principle of law that extra-judicial confession can form a basis for conviction if found voluntary and true (Reference: case of Nausher Ali Sarder and others versus the State reported in 39 DLR (Ad) at page 194). This Court finds nothing to disbelieve the evidence of the Pw 2, the Pw4, the Pw8 and the Pw 15 with regard to the extra-judicial confession made by the aforesaid accused-persons. In this case the truth and voluntariness of the extra-judicial confessions made by the accused-persons was not challenged by the defence.

59. In this case although the dead body of the victim Anamika as recovered from a IRRRI paddy field was stated to be of an unknown girl. But subsequently, her father and relatives identified the dead body to be of the victim Anamika. So, there is no doubt that the dead body as recovered was none other than that of Anamika, the victim.

60. From the materials on record, it is found that all the accused-persons in committing the alleged occurrence acted in concert and that they had a general intention shared by them united with a common purpose to commit the offence and as such, all the accused-persons are equally guilty for the commission of the alleged offence.

61. From the evidence on record, it further transpires that the accused-persons Manik, Naryan and Nurul Islam kidnapped the victim Anamika away by a taxicab and started for Mymensingh; that on the way when they reached near Tangail, seeing Police on the road, returned back and took the victim to a hotel at Savar and that the accused Alauddin assisted them in committing the offence by remaining present at the place of occurrence and by asking Toma to inform the matter of kidnapping to the house of the victim. Further, the accused-persons Alauddin and Johni Ghosh assisted the commission of offence by taking part in chalking out plan of kidnapping and by playing the role of the informers.

62. In this case, naturally, the names of the accused-persons were not mentioned as the case is one of kidnapping and so also in view of the fact that the informant was not present at the time of occurrence. Subsequently, through investigation and confessional statements of the accused –persons, their names came out. From the materials on record, it transpires that the accused-persons Manik, Narayan, Johni. Alauddin chalked out plan to kidnap the victim sitting at Shikaritola and that the accused Manik was the master mind of the kidnapping and killing of the victim. The other accused-persons gave assistance to the accused Manik in perpetrating the occurrence playing their respective role in the occurrence. The accused Johni and Alauddin directly participated in the alleged occurrence by taking part in planning, assisting and worked as the informers with regard to the movement of the victim and keeping watch at the locality. At the time of the occurrence the accused Alauddin stood beside the taxicab at the place of occurrence and saying Toma, the Pw20 (8) that the victim Anamika was kidnapped away asked her to inform the house of Toma about the kidnapping. The Pw20, as stated earlier, in her evidence identified him in the dock amongst the other accused-persons. The Pw20 categorically stated in her cross on behalf of this accused that none identified the accused Alauddin to her. The accused Anwar was aware of the alleged occurrence from before as per the information given to him by his maternal uncle, the accused Manik. He fetched the ransom money of Tk.2.10 lakhs from behind ‘Atibazar Cinema Hall’ as per the instruction of the accused Manik and also got a share of Tk.5,000/00 from it. Subsequently, the taxi-cab driver Nurul Islam got involved in the kidnapping. When the accused Nurul Islam, the taxicab driver saw the other-accused-persons kidnap the victim, his moral duty was to inform the law enforcing agency of the occurrence and obstruct the other accused-persons from committing the offence, instead, he assisted the accused-persons to kidnap the victim-girl which is manifest from the fact that on the way to Mymensingh when they saw police near Tangail, he took back his taxi-cab and took the victim and the other accused-persons to Savar. It also appears from the materials on record that the accused Nurul Islam Munshi, the driver of the taxi cab was arrested first in the case and he mentioned the name of the accused Md. Manik and after tracking the call list of mobile phone of Manik, the other accused-persons were also arrested one by one. As a driver of the taxi cab, the accused Nurul Islam Munshi could have saved the life of the victim-girl but he did not do that. He entered into a contract with the accused Md. Manik at Tk. 5,000/00 as fare to reach them to Mymensingh. For allurement of the said money he took part in the alleged occurrence. Said accused also made arrangement for stay of the accuse Manik and the victim Anamaika in a hotel at Savar giving their false identity as brother and sister and giving their false names to be Badsha and Shiuli.

63. So, from the evidence on record, it is crystal clear that on 26.02.2009 at about 1.40 p.m. while the victim Anamika Ghosh was returning home after appearing in the examination in 'Bamansur Kindergarten School', the accused-persons kidnapped her away by a taxicab; that thereafter, the accused-persons demanded Tk.10.00 lakhs as ransom money for her release which was settled at Tk.2.10 lakhs through negotiation; that as per the demand of the accused-persons, the father of the victim paid Tk.2.10 lakhs to the accused-persons as ransom money; that even after the payment of Tk.2.10 lakhs as ransom money, the accused-persons did not release the victim, rather, the accused Manik killed the victim by throttling and buried her body under heaps of soil and that the other accused-persons in furtherance of their common intention took part in the act of kidnapping and killing.

64. In view of the discussion made here above, and so also on perusal of the evidence on record and observation of the decisions as cited by the learned Advocates, this Court is led to find that on 26.02.2009 at about 1.40 p.m. the accused-persons kidnapped away the victim-deceased Anamika Ghosh from the road in front of Bamansur graveyard gate while she was going home after appearing in the examination, demanded Tk.10.00 lakhs as ransom money from the father of the victim girl and that even after realization of Tk.2.10 lakhs as ransom money, instead of releasing the victim, killed her ruthlessly in a gruesome and relentless manner. This Court is also led to find that the trial court rightly found the accused Manik guilty under sections 7/8 of the Nari-O-Shishu Nirjahan Daman Ain, 2000 (Amended in 2003) read with sections- 302/201 of the Penal Code and found the other accused-persons guilty under section 7/8/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (Amended in 2003).

65. In this case, the victim Anamika was a minor, innocent girl of 8/9 years of age and a student of Class III of a Kinder Garten School who was kidnapped in a pre-planned way for realization of ransom money by the accused-persons and that even after realization of the ransom money, the condemned-accused-prisoner Md. Manik killed her by throttling relentlessly and after killing the girl buried her dead body under heaps of soil in a IRRI Paddy field to conceal evidence. The aforesaid acts of the condemned-accused-prisoner and the other convict-accused-persons defeat the brutality of the medieval age and the said acts are against humanity. The condemned-accused-prisoner and the other convict-accused-persons are the real threat to the humanity and the society. For the said loath some and heartless act of the condemned-accused-prisoner, he deserves capital punishment in this case. There are no mitigating or extenuating circumstances in this case in favour of the condemned-accused-prisoner. In this regard, the case of Md. Ershad Ali Sikder versus The State reported in 9 MLR (AD) at page 355 may be referred. In the said case our apex Court held that the sentence of death is the appropriate sentence where the death is caused with extreme brutality. So, according to this Court, the only punishment which the condemned-prisoner deserves in this case is the capital sentence i.e. the death sentence.

66. In the light of discussion made here above, and so also on consideration of the facts and circumstances of the case we find that the trial Judge was perfectly justified in passing the impugned judgment and order awarding death sentence to the condemned-accused-prisoner Md. Manik and imprisonment for life to the other convict-accused-persons. In view of the shocking and gruesome manner in which the condemned-prisoner caused to happen the occurrence, this Court finds no extenuating or mitigating circumstances to commute the death sentence as awarded to him.

67. In the result, the Death Reference is accepted and the judgment and order of conviction and sentence dated 24.01.2010 passed in Druta Bichar Tribunal Case No.04 of 2009 arising out of Keraniganj P.S. Case No. 28 dated 26.02.2009 corresponding to G.R. Case No.530 of 2009 is hereby upheld and affirmed. The condemned-accused-prisoner Md. Manik be hanged by his neck till he is dead.

68. Consequently, the Criminal Appeal No.416 of 2010, the Criminal Appeal No.664 of 2010, the Criminal Appeal No.917 of 2010, the Criminal Appeal No.1378 of 2010, the Criminal Appeal No.1070 of 2010 and the Jail Appeal No.60 of 2010 are hereby dismissed.

69. The trial Court is directed to pay the realized ransom money worth Tk.1,27,000/- to the informant.

70. Let the lower Court's record along with a copy of this judgment be sent down at once.