

Abed Ali Laskar and Others Vs State of West Bengal

Court: Calcutta High Court

Date of Decision: April 30, 2003

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 161, 313
Penal Code, 1860 (IPC) â€” Section 148, 149, 302, 304

Citation: 108 CWN 267

Hon'ble Judges: Sadhan Kumar Gupta, J; Nure Alam Chowdhury, J

Bench: Division Bench

Advocate: Sekhar Basu, Jaymalya Bagchi, S. Mitter and Saibal Bapuli, for the Appellant; Kazi Safiullah and R.K. Ghosal, for the Respondent

Final Decision: Dismissed

Judgement

Sadhan Kumar Gupta, J.

These two criminal appeals were taken together for hearing, as both these appeals are from a single judgment

passed by learned Additional Sessions Judge, 7th Court. Alipore in Sessions trial No. 9 (3) of 1997. By the said judgment, the learned Court

below convicted 8 accused persons for the offence u/s 148 of the I.P.C. and they were sentenced to suffer imprisonment for 2 years and to pay a

fine of Rs. 1000/- each. Five other accused persons viz. Abed Ali Laskar, Nazu alias Nazrul Laskar, Azijul Laskar, Sirajul Laskar and Nabir Ali

Laskar were convicted u/s 302 read with Section 149 of the I.P.C, and were sentenced to suffer imprisonment for life and also to pay a fine. As

the convicted accused persons were aggrieved by the said judgment and order of conviction passed by the learned Court below, they filed two

separate appeals against the said order of conviction. Since both the appeals have arisen from a self-same judgement, both of them were taken up

together for consideration. The case of the prosecution is that on 15.10.93 at about 10/10.30 a.m. when the de facto complainant was giving

"PALA" in the pond then the accused persons namely Abed Ali Laskar. Nabir Ali Laskar (Kachi), Sher Ali Laskar. Mohammad Laskar. Sahadul

Laskar. Nazu Laskar, Sirajul Laskar and Aju Laskar came there being armed with lathi, iron rod, etc. They started abusing the de facto

complainant Moula Molla in filthy language and asked about the whereabouts of his uncle Mannan Molla. At that time Mannan Molla was returning

home from his pond. As soon as the accused persons saw Mannan, they all shouted and abused him and expressed their desire to kill him. They

caught his uncle and immediately thereafter accused Abed Ali Laskar hit him on his head with an iron rod and as a result of that Mannan Molla fell

down. Immediately thereafter, the above named persons started assaulting Mannan with iron rod, lathi, etc. on his head, chest and other parts of

the body with the intention to kill him. Hearing the human cry. the daughter of Mannan Molla and other witnesses reached the spot. One accused

person assaulted the de facto complainant and Maleka, the daughter of Mannan and as a result of that they both sustained some injuries. Due to

the assault the skull of Mannan Molla was fractured and due to his injuries in chest there was bleeding from his mouth and nose. After the

occurrence the de facto complainant took Mannan Molla to Mograhat P. S. Seeing the serious condition of Mannan. he was immediately sent to

the Mograhat Hospital, wherefrom he was again referred to Diamond Harbour Hospital. As the condition of Mannan was very serious so the

Diamond Harbour Hospital referred him to Bangur Hospital where he was admitted in setious condition. As the de facto complainant and others

returned to the village in the night, they could not inform the matter in writing to the P. S. and as such on the next date i.e. 16.10.93 at about 9 a.m.

the de facto complainant submitted the written complaint to the Mograhat P.S. In the written complaint, it was also mentioned therein that the

accused persons committed the offence at the instigation and order of the local Panchayat Pradhan Muraribabu. On the basis of the written

complaint. Mograhat P.S. Case No. 86 dt. 16.10.93 was started against the accused persons. The case was Investigated and after completion of

the investigation chargesheet was submitted against 11 accused persons including the 8 accused persons who are named in the F.I.R During trial

charges under Sections 148 and 302 read with 149 I.P.C. were framed against the accused persons. Same was read over and explained to the

accused persons both who all pleaded not guilty to the charges and claimed to be tried. Prosecution in all has examined 14 witnesses to prove

charges against the accused persons. Defence has not adduced any evidence. Defence case, as it has transpired from the trend of cross-

examination as well as from the statement as made u/s 313 Criminal Procedure Code, is that of complete denial and that they have been falsely

implicated in this case.

2. We have already painted out that the learned Court below held all the appellants guilty for the offence u/s 148 of the I.P.C. and the learned

Court below separately held accused Abed Ali Laskar. Azijul Laskar. Sirajul Laskar, Nabir Ali Laskar and Nazu alias Nazrul guilty for the offence

u/s 302 read with Section 149 I.P.C. Let us now see how far the learned Court below was justified in convicting the accused persons as

mentioned hereinbefore. It appears from the. Lower Court Record that prosecution in all has examined 14 witnesses to prove the charge against

the accused persons. Out of those 14 witnesses PW. 1 Moula Molla, PW. 5 Maleka Khatun. PW. 7 Salima Bibi, PW. 11 Kuddus Ali Molla are

the eye-witnesses. PW. 2 is Doctor P. B. Das who conducted the P.M. examination. PW. 6 is Palan Fakir. He wrote the F.I.R as per dictation of

the PW. 1. PW. 8 is Sahidullah Molla. He reached the P.O. immediately after the incident. PW. 10 is Hannan Molla. He has claimed that he

reached the P.O. after the incident. But this witness has also claimed that on the date of incident he met the accused persons near the market when

the accused persons informed him that they assaulted Mannan. We have considered the evidence that is available in the record. Let us now first of

all discuss the evidence of the eye-witness so far as the present case is concerned. PW. 1 Moula Molla. is the nephew of the deceased Mannan

Molla. According to this witness, on the date of incident, the accused persons namely Abed Ali Laskar. Sher Ali Laskar, Nazu Laskar,

Mohammad Laskar, Nabir Ali Laskar, Sirajul Laskar, Aju Laskar, Sahidul Laskar came to him and enquired about the whereabouts of the

deceased Abdul Mannan. He has claimed that at that time they were armed with lathi and iron rod. This witness has also claimed that when those

persons went away he decided to follow them. According to him. thereafter he found that his uncle Abdul Mannan was coming with fishing net and

at that time accused Abed Ali assaulted him by an iron rod on his head. He has further claimed that Nazu and other accused persons started

assaulting Abdul Mannan by lathi and iron rod. This witness has claimed that at that time his sister Maleka who was coming with Mannan went for

his. rescue and at that time accused Sahidul assaulted her by a lathi and as a result of that she fell down. He has also stated that thereafter accused

Mohammad Laskar held her feet and threw her to the adjoining khal. Due to the assault Mannan Molla sustained bleeding injuries and this witness

along with Maleka and others brought him to the Mograhat P.S. by a van. From there, they were sent to Mograhat Hospital. He has further

claimed that from the said hospital they were referred to Diamond Harbour Hospital and lastly the injured was sent to Bangur Hospital where the

patient was admitted. He has claimed that Mannan died in the said Hospital. According to this witness at first policy informed them that no case

would be instituted as the Pradhan had given them something in writing. He has also claimed that the Pradhan who is an accused in this case,

assured that he would settle the matter amicably. Subsequently on the next day of the incident the PW. 1 lodged the F.I.R. in the P.S.

3. The evidence of the PW. 1 has been corroborated by the evidence of the PW. 5 Maleka Khatun, daughter of the deceased Abdul Mannan

Molla. She in her evidence has stated that on the date of incident she was returning along with his father after spreading net in her uncle's tank. She

has stated that at that time she found that accused Abed Ali assaulted her father by an iron rod over his head and thereafter accused Nazu

assaulted her father by a palm stick. As a result of that her father fell down on the ground and she rushed to the spot for his rescue. She has also

claimed that her father was assaulted by Kachi, Mohammad; Sher All. Siraj, Azijul by lathi etc. According to this witness, when she went to the

rescue of her father then accused Sahidul assaulted her with a lathi and accused Mohammad dragged her and threw her towards the Khal. Due to

this assault she sustained bleeding injuries.

4. The evidence of the P.W. 1 and P.W. 5 finds almost total support from the evidence of the PW. 7 Salima Bibi, the wife of Abdul Mannan

Molla, since deceased. According to this witness, she found accused Abed Ali assaulting her husband over his head by an iron rod and accused

Nazu. Azijul, Siraj, Kachi alias Nabir Ali Laskar also assaulted her husband with lathi etc. although her husband at that time fell on the ground. She

has further stated that accused Sahidul assaulted her daughter Maleka and accused Mohammad dragged her and threw her in the nearby khal. She

has stated that her husband was taken to the hospital as well as to the thana by a van.

5. The evidence of the P.W. 5 and P.W. 7 has been corroborated by the evidence of P.W. 8 Sahidulla Molla. He in his evidence has stated that

on the date of incident he found accused Abed Ali with iron rod in hand. Nazu with palm stick. Mohammad, Nabir Ali. Siraj were carrying lathis of

different sizes while he was going to his field. According to this witness hearing a human cry he rushed to the spot and found that his uncle Mannan

was bleeding from his nose and cheek and he was lying on the ground with several injuries on his person. He also noticed a big hole on the head of

Abed Ali. According to this witness, Abed Ali was removed to the Police Station and thereafter to the hospital.

6. The P.W. 10 in his evidence has stated that on the date of the incident the accused persons informed one Hanif Naskar, in his presence that they

assaulted Abdul Mannan who would die after sometime. Hearing that news he rushed to his house and found his brother lying in an injured

condition on a van with bleeding injuries on his person. He also noticed a big hole on the head of the injured. This witness has stated that he

accompanied the injured to the Mograhat Police Station along with others where the Police refused to record the F.I.R. as they received a letter

from the Pradhan Murari Sardar. The evidence of all these witnesses has been largely corroborated by the evidence of the PW. 11 Kuddus Ali

Molla. He in his evidence has stated that hearing a human cry he reached the P.O. and found Abed Ali, Nazu, Sher Ali, Azu, Siraz. Nabir Ali,

Mohammad and Sahidulla were assaulting Abdul Mannan by iron rod and lathi. He has claimed that Abed Ali assaulted Mannan by iron rod and

as a result of that he sustained injuries. According to him other accused persons assaulted Mannan by lathi.

7. We have discussed the evidence of the eye-witnesses of this case and from their statements it appears that the prosecution has been able to

prove that the accused persons after forming unlawful assembly assaulted Abdul Mannan. caused injuries to his person and as a result of that he

subsequently died. Learned Advocate for the accused persons argued that the statements of the eye-witnesses should not be believed as some of

them are most interested witnesses while some others are merely chance witnesses. But it appears that the PW. 5 Maleka Khatun is the daughter

of the deceased and PW. 7 is Salima Bibi is the wife of the deceased. There cannot be any doubt, they are the close relations of the deceased. But

simply for that reason the evidence of these witnesses cannot be discarded. On the other hand we are of opinion that they are the most important

witnesses for the purpose of this case as because it is not natural for them to implicate some persons falsely in connection with the murder of their

dear one. leaving aside the actual culprit. The learned Advocate for the appellants argued that there is discrepancy in between the statement of the

PW. 1 and PW. 5 regarding the actual presence of Maleka Khatun at the time of incident. He argued that PW. 1 has stated that Maleka Khatun

came to the spot after hearing the cry of her father while the PW. 5 Maleka Khatun herself has claimed that she was accompanying her father at

the time of incident. As such, the learned Advocate for the appellants argued that this discrepancy is a vital one and it should be presumed that

either of these two witnesses has deliberately made false statement. But we regret we cannot agree with this argument. May be it has been stated

by the PW. 5 that she was at a distance from her father at the time of incident and not by the side of her father, as claimed by the PW. 1. But this

alleged discrepancy does not appear to us to be vital in nature. Considering the fact that both the PW. 1 and PW. 5 have clearly claimed that the

PW. 5 was very much present at the time of the incident, we are not inclined to attach any importance whatsoever to this alleged discrepancy.

8. The learned Advocate has further pointed out that some of the statements which the PW. 5 has made during trial, was not made before the I.O.

and as such according to him the statements, made by this P.W. 5 during trial should not be taken into consideration. But it appears from the

record that at the time of incident this P.W. 5 was a minor girl and naturally we cannot expect a detailed and accurate description of the incident

from her at the time of her examination by the Investigating Officer. There cannot be any doubt that at that time this P. W. 5 was in great mental

shock as she lost her father due to the gruesome incident. Naturally, it is expected that she was not in a position to give clear and detailed

description of the incident. As such, we do not attach any importance to this argument of the learned Advocate for the appellant. That apart if we

look into the evidence of the P.W. 11 Kuddus Ali Molla then it will appear that he is not a relative of the deceased. This witness certainly is an

independent witness and in his evidence he has clearly stated that he found the accused persons assaulting Mannan Molla by iron rod and lathi etc.

The accused persons made elaborate cross-examination to this witness but inspite of that the evidence as given by this P.W. 11, remained

unshaken. Simply because he could not say the Block number or Khatian number of his land, for that reason the substantive evidence of this

witness cannot be brushed aside. Suggestions were given to this witness during cross-examination that he did not state all these things to the I.O.

during his examination by the I.O. at the time of investigation. But this witness categorically denied those suggestions. If we look into the evidence

of the P.W. 14 Ramesh Sarkar, who is the I.O. of this case, then it will appear that no question was put to him regarding the examination done by

him so far as the P.W. 11 is concerned during investigation. Excepting the question that the P.W. 11 did not state before the I.O. regarding the

presence of Moula or Maleka. no other question was put to the I.O. regarding this P.W. 11 drawing his attention to the earlier statements made

u/s 161 Criminal Procedure Code by this witness. So the normal conclusion is that there is nothing to disbelieve the evidence as given by the P.W.

11 Kuddus Ali Molla. We have already pointed out that he is an independent witness and his evidence gives credibility to the evidence of the P.W.

1, P.W. 5 and P.W. 7.

9. Learned Advocate for the appellants argued that in this case the prosecution has failed to describe clearly the place of occurrence. For this, he

drew our attention to the evidence of the I.O. wherein he admitted that he did not find the sketch map of the P.O; in the case diary. It is a fact that

during trial, the sketch map could not be produced by the prosecution. That is undoubtedly a laches on the part of the prosecution. But that does

not mean that simply for that reason the entire prosecution case should be disbelieved. If we look into the evidence of the eye-witnesses then it will

appear that all of them clearly stated that the incident took place near the khal. Learned Advocate for the appellants pointed out that this khal runs

for a long distance and the prosecution has failed to point out at which particular place of this khal the incident took place. But if we look into the

evidence of the eye-witnesses, then It will appear that they have clearly stated regarding the place where the incident took place and to our mind

there is no scope for ambiguity in Identifying the place of occurrence. For locating the place of occurrence it is not necessary that it should be pinned

pointed to a particular place of about 2/3 feet. What is required is the probable place where the incident took place. We have already pointed out

that the witnesses have clearly stated that the incident took place near the khal and as such we find that there is no ambiguity in identifying the place

of occurrence and it cannot be said that the defence has been prejudiced for non-production of the sketch map in question.

10. That apart the learned Advocate for the appellants further argued that it has transpired from the evidence that the deceased was first of all

taken to Mograhat P.H.C. and from there to Diamond Harbour Hospital and lastly to the Bangur Hospital. But so far as the present case is

concerned, the medical papers of those hospitals were not seized by the I.O. nor the prosecution examined those Doctors who treated the patient.

As such the learned Advocate for the appellants argued that material evidence has been withheld by the prosecution and so an adverse

presumption should be taken against the prosecution case. But if we look into the evidence of the PWs. then it will appear that the injured was

taken to those hospitals initially for treatment but as the case was serious, so the patient was not treated at Mograhat P.H.C. or at the Diamond

Harbour Hospital. So question of seizing the medical papers from those hospitals as well as examining the Doctors of those hospitals, who were

posted on that day, does not arise at all. Non-production of medical papers from the Bangur Hospital is also not vital for the purpose of this case,

since the post-mortem Doctor has been examined as well as cross-examined by the appellants. From the post-mortem report as well as from the

evidence of the Doctor we clearly get the nature of the injuries sustained by the deceased prior to his death and also the opinion of a competent

Doctor regarding those injuries. As such we are unable to accept this argument of the learned Advocate for the appellants.

11. Another criticism has been made by the learned Advocate for the appellants to the effect that although it appears from the evidence of the

P.Ws. that due to the injuries sustained by the injured, blood fell on the earth and also on the wearing apparels of the injured, still the I.O. did not

seize the wearing apparels as well as the blood stained earth or the controlled earth of the P.O. and as such, according to him. those should be

treated as a vital defect in the prosecution case. Undoubtedly, it was the duty of the I.O. to seize all those articles. But that does not mean that

simply for non-seizure of those articles by the Investigating Officer at the time of investigation, the prosecution case should be disbelieved. We have

already pointed out that there are clear and cogent evidence on record to show that the deceased sustained injuries at the hands of those appellants

and as such we are of opinion that this defect on the part of the Investigating Agency does not in any way hamper the prosecution case. If a case of

this nature, is allowed to be destroyed due to this type of laches on the part of the Investigating Agency, then it will give rise to a dangerous

precedent and in that event there is every possibility that the Court will have to play into the hands of an unscrupulous Investigating Officer. In pur

opinion, there was no prejudice to the accused persons due to the non-seizure of those articles by the I.O. and as such we do not attach any

importance to this argument of the learned Advocate for the appellants.

12. Furthermore, the learned Advocate for the appellants argued that the F.I.R. of this case was lodged after a delay of about 24 hours. As such,

he argued that reliance should not be placed on this F.I.R. when it has transpired from the evidence that the relatives of the deceased had been to

the P.S. immediately after the occurrence. But it appears that when the F.I.R. was lodged, at that time also the injured was alive and he was

admitted in the hospital. It has transpired from the evidence on record that the relatives of the injured took him to several hospitals on that night and

ultimately he was admitted in the Bangur Hospital. Thereafter the F.I.R. was lodged. To our mind the delay in lodging the F.I.R. has been

sufficiently and effectively explained by the prosecution and there is nothing to disbelieve it. In our opinion, the F.I.R. was lodged at the earliest

opportunity as because in the meantime the relatives were busy in getting the injured treated in the hospital. It is most natural under the

circumstances.

13. Learned Advocate for the appellants pointed out to the statements made by the witnesses that when they first visited the police station along

with the injured at that time G.D. entry was made. So according to the learned Advocate, that G.D. entry should be treated as the first information

report. As the said G.D. entry has not been produced during trial by the prosecution, so he argued, it should be presumed that the prosecution has

suppressed the material document from the court and as such an adverse presumption should be taken. But we must remember that the witnesses

are village rustic people and it is not expected from them that they are capable of understanding the difference in between G.D. and F.I.R. Simply

they have stated that they have reported the matter to the Police Officer. But according to them in all probability Police Officer made a G.D. entry

and referred the patient to the hospital. Nowhere it has been stated by the witnesses that they have narrated the entire incident and it has been

reduced in writing by the concerned Police Officer in the G. D. Book. That apart it appears that in this case a peculiar circumstance has taken

place. It has transpired from the evidence on record that one of the accused, who has been subsequently acquitted viz. Murari Sardar was the

Pradhan of the village in question. This Pradhan wrote a letter in his official capacity to the P.S. practically directing the Police Authority not to start

a case but only to make a G.D. entry regarding the incident as according to him he was taking step for amicable settlement between the parties. It

is surprising that on the basis of this letter of the Pradhan, the Police Officer preferred not to start a case at that material time although the injured

was produced before him by his relatives. It is shocking that the Police Officer in question acted according to the dictate of the Pradhan of the

village in performing his official duty. The Officer-in-charge of a P.S. is a creature of the statute and he is expected to discharge his duties fearlessly

as per the provisions laid down in the Criminal Procedure Code. He is not bound to perform his duty as per the whims of any unauthorised person.

This shows that something is wrong in the Police Administration and as a result of that this Police Officer preferred most cowardly to obey the

order of the Pradhan of the village who was surprisingly shown as an accused in connection with this case. This is nothing but unnecessary

interference with the criminal justice system by an unauthorised person who has been effectively helped by the concerned Police Authority.

14. Be that as it may, it appears that the Investigating Officer in his evidence has admitted without any hesitation that he received the said letter of

the Pradhan requesting him to enter the fact in the G. D. for future compromise. So we can presume that as a loyal servant of the Pradhan the

concerned Police Officer noted the fact in the G. D. for future compromise. So this G. D. entry, even it was in existence, will not help the defence

case at all and I fully agree with the finding of the learned Court below that nonproduction of the concerned G. D. in no way affected the

prosecution case and the accused persons were not at all prejudiced by the said non-production.

15. Learned Advocate for the appellants argued that even if the prosecution case can be accepted to be true, then also it should be held that it was

a case u/s 304 of the I.P.C. and not u/s 302 I.P.C. as decided by the learned Court below. But if we look into the evidence of the eye-witnesses,

then it will appear that from the very beginning the accused persons were bent upon killing the deceased. First of all the deceased was searched in

his house and thereafter as soon as they found him on the road, one of them assaulted him on his head by an iron rod and even when he fell down

the other persons assaulted him by lathi, palm stick etc. The evidence of the Doctor who has been examined as P.W. 2 in this case is most

important for the purpose of this case. If we look into the evidence of the Doctor then it will appear that he found huge number of injuries on the

body of the deceased. This Doctor has opined that besides other injuries he found one hematoma over left side of occipital region measuring 3" x

3". It has transpired from the evidence that accused Abed Ali assaulted the deceased on his head by an iron rod. We can safely presume that this

injury was caused due to that assault. According to the Doctor, as a result of that injury there was clotting of blood inside the brain which led to

cerebral haemorrhage. The Doctor in his opinion has stated "Death in my opinion was due to effect of head injuries as stated above antimortem

and homicidal in nature. This is impact of heavy blunt substance like lathi, block of wood, light iron rod etc. These injuries may be caused by more

than one person." So from the evidence of the Doctor it is clear that due to the injuries caused by the accused persons on the body of the

deceased, he ultimately died. The manner in which those injuries were caused clearly suggest that the accused persons caused those injuries with

the sole intention of killing the deceased knowing fully well that those injuries most likely would cause death of the victim and as such we fully agree

with the view of the learned Court below that the accused persons are guilty for the offence of murder and they were rightly committed u/s 302 of

the I.P.C. Learned Advocate for the appellants argued that on the basis of the opinion of the Doctor only accused Abed Ali could be held guilty

for the offence of murder and not the other accused persons. But we regret we cannot agree with this argument. Because, it appears that not only

this appellant Abed Ali Laskar the other accused persons also took part in the commission of the offence and when the deceased fell down then

also they assaulted him and thereby aggravating the injuries sustained by him at the hands of Abed Ali Laskar. So they cannot escape their

liabilities. In this case charge has been framed against the accused persons u/s 302 read with Section 149 of the I.P.C. We have already discussed

that the prosecution has been able to prove that on the relevant day the accused persons formed an unlawful assembly and their common object at

that time was to cause the death of the deceased. As such, the learned Court below was perfectly justified in holding that Abed Ali Laskar. Nazu

alias Nazrul Laskar. Azijul Laskar. Sirajul Laskar and Nabir Ali Laskar. at the material time formed an unlawful assembly with the common object

of. killing the deceased and so they were rightly convicted u/s 302 read with Section 149 of the I.P.C. It has been argued further that Sher Ali

Laskar, Mohammad Laskar and Sahidulla Laskar, although were members of the said unlawful assembly as claimed by the prosecution, they were

simply convicted u/s 148 of the I.P.C. and not u/s 302 read with Section 149 of the I.P.C. It is correct that the prosecution has been able to prove

that those three persons were also members of the unlawful assembly and we fail to understand as to why those three persons were not convicted

u/s 302 read with Section 149 of the I.P.C. like the other accused persons. But in this appeal we are not supposed to give our verdict to that effect

since there is no appeal preferred by the State for enhancement of the sentence imposed upon those three accused persons. As such, we refrain

ourselves from interfering with the said finding of the learned Court below at this stage. We are of opinion that the prosecution has been able to

prove that all the eight appellants were members of the unlawful assembly and as such the conviction of those persons u/s 148 I.P.C. is perfectly

justified. We are also of opinion that the learned court below was perfectly justified in holding the appellants namely Abed Ali Laskar, Sirajul

Laskar, Azijul Laskar, Nabir Ali Laskar, Nazu alias Nazrul Laskar guilty for the offence u/s 302 read with Section 149 I.P.C. The sentence as

imposed on the accused persons by the learned court below, appears to be justified and this court finds no reason to interfere with the said finding

of the learned court below. Considering all these things we are of opinion that there is no merit in these two appeals as preferred by the appellants

and both the appeals bearing No. C.R.A. 159/98 and C.R.A. No. 173/98 are dismissed. The judgement and order of conviction as passed by the

learned Court below is confirmed."" The accused persons, If are on bail, are directed to surrender before the learned Court below at once to serve

out the sentence. Send a copy of this judgment along with Lower Court Record to the Court below immediately.

Nure Alam Chowdhury, J.

I agree.