

25.04.2023  
Court No.13  
Item No.4  
AP

**WPA 23497 of 2022**

**Salim Ahmed and Anr.  
Vs.  
State of West Bengal & Ors.**

Mr. Ranajit Chatterjee  
Mr. Arnab Das  
Mr. Prosenjit De  
Mr. Asit Kr. Biswas  
Mr. Niladri Sekhar Ghosh  
Mr. Aniruddha Mitra  
Ms. S. Chatterjee  
Mr. S. Mondal

... For the Petitioners.

Mr. S.N. Mookherjee, Advocate General  
Mr. Amitesh Banerjee, Senior Advocate  
Ms. Ipsita Banerjee  
Ms. Piyali Sengupta

... For the State.

Mr. Anindya Kumar Mitra, Senior Advocate  
Mr. R.N. Majumder  
Mr. S.M. Obaidullah  
Mr. Ayan Bhattacharya

... For the IIT.

Mr. Sandip Kumar Bhattacharya, Amicus Curae

... For Dr. A.K. Gupta.

1. Dr. Ajoy Kumar Gupta, the forensic expert, appointed by this Court, has submitted a preliminary report annexing therewith photographs from the footage of the post mortem already conducted by the police and has come to three preliminary findings.

2. Firstly, that there are two visible injury marks, otherwise medically called Haematoma, on the back of the head of the victim and the marks have been confirmed by Mr. Sandip Kumar Bhattacharya, Ld. Amicus Curae. The original post mortem report does not mention the same.

3. Consequently, the base of the skull ought to have been examined and reported by the post mortem doctor which has not been done.

4. The second important finding is that certain cut marks on the arms of the victim Faizan Ahmed, according to Dr. Gupta, are clearly those inflicted after death.

5. Mr. Bhattacharya has placed seizure report of the police dated 17<sup>th</sup> November 2022 which indicates that a chemical called Emplura (sodium nitrate) in a bottle has been seized from the scene of the crime. It is submitted by Mr. Bhattacharya that sodium nitrate a yellowish powder is normally used to preserve meat. There is some yellowish residue in a bucket found by Dr. Gupta and Mr. Bhattacharyya during his visit to the room.

6. It is submitted that when a body decomposes, it is impossible that the fellow inmates of the hostel would not be able to detect it. There was mysteriously no smell from the body for 3 days. The presence of this chemical Emplura (Sodium Nitrate) opens up serious questions as regards the time of death and whether it may have been used to preserve the body after the death of the victim.

7. Photographs relevant to the aforesaid findings are annexed to the report.

8. Having heard the learned counsel for the parties, this Court is, therefore, of the view that a second post mortem is necessary.

9. The body of the victim has been buried as per Muslim rites at Assam. Let the body of the victim Faizan Ahmed is ordered to be exhumed.

10. An affidavit of the parents of the victim consenting to such exhumation and second post mortem has been filed in Court today is taken on record.

11. The investigating officer in the matter shall coordinate with the Assam Police and ensure that the body and/or remains are exhumed, brought to Kolkata by the State Police and fresh post mortem is conducted. It is expected that due care and caution is exercised while exhuming the body. The local courts in Assam are requested to kindly extend cooperation. Representatives of the parties may be present during the exhumation.

12. The second post mortem may be conducted by Dr. Gupta in the presence of earlier post mortem doctors and anybody that the State may nominate from their side. Mr. Sandip Kumar Bhattacharya may be present during post mortem.

13. The post mortem may be conducted at the Kolkata Medical College and Hospital at College Street, Kolkata. The aforesaid exercise is vital and necessary for arriving at the truth behind the death of Faizan Ahmed.

14. This order should not be construed as casting any aspersions on the State police since they have proceeded primarily on the post mortem report given to them. It is

expected that the aforesaid exercise is conducted and completed within a period of one month from date.

15. A forensic expert in the State of Assam may be requested to be present during the exhumation of the body. The investigating officer shall coordinate with the Assam police. The Assam police are requested to kindly assist in the aforesaid exercise.

16. It is expected that the photographs and videography of the exhumation and further post mortem report be made available to the police, the post mortem doctors, who had conducted the post mortem earlier and the IIT, Kharagpur, and the advocates for the petitioner.

17. Let a further remuneration of Rs.15,000/- be paid to Dr. Gupta by the IIT, Kharagpur, forthwith without any delay.

18. Let this matter stand adjourned and be listed on 13<sup>th</sup> June, 2023.

19. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**