

Special on Bangabandhu Murder Trial

The Law Reigns Supreme

The Verdict

ALTHOUGH rare in the annals of legal proceedings, such a case is not unprecedented. Despite being a significant historic event, this murder case is just another murder case because we have to dispense justice in accordance with law and not according to moral conviction with regard to the occurrence. The strict requirement of law is that the onus lies on the prosecution to prove its case beyond reasonable doubt.

When human life pends in the scales, caution becomes the primary duty of any tribunal called upon to assess the evidence of the case, having regard to this statutory rule of caution. In line with the unforgettable doctrine, on the basis of verbal, documented, circumstantial evidence and *alamat*, maximum efforts have been made to ensure justice in this case, too.

It is noted from the account of events related to the case that a few months prior to August 15, 1975, some derailed, dismissed and aggrieved personnel of the armed forces had conspired with a few politically ambitious individuals to kill the then President Bangabandhu Sheikh Mujibur Rahman and oust his government to realise their individual and collective interest. According to the plan, those army personnel assembled at Balurghat in the Dhaka Cantonment area in the early hours of August 15, 1975

in the excuse of parade/training and having a briefing against Bangabandhu and his government, stationed soldiers in three groups with tanks, cannons, weapons and ammunition in the vicinity of Bangabandhu's residence and at different points of the city. At five in the morning, one group attacked Bangabandhu's residence at house no 677, road no 32, Dhanmondi and killed 11 people including Bangabandhu Sheikh Mujibur Rahman, his wife Fajilatunnessa, three sons -- Sheikh Kamal, Sheikh Jamal and Sheikh Russel, two daughters-in-law -- Sultana Kamal and Rosy Jamal, brother Sheikh Nasser, Sub-inspector of Special Branch Siddiqui Rahman, Shamsul Haq, a sentry, and Colonel Jamil, the president's military secretary. Later, without taking legal measures or performing religious rites, they buried the dead bodies. With a view to maintaining peace and to keeping the legal and judicial system functional, the prosecution demanded trial and appropriate punishment of the criminals involved in this ruthless killing.

On the other hand, the criminals claimed that they were not involved in the murders of this case, saying a third party had engineered the killings. It was also said that as the killing occurred under the martial law, constitutionally the litigation

could not continue.

Under Article 173 of the criminal procedure, police, upon investigation, following an FIR filed nearly 21 years after the incident, pressed charges under penal code 120B/302/34/149/324/307/201/380/201 against late Khondker Mushtaq Ahmed, late Mahbub Alam Chashi, late Captain Mustafa and late Risaldar Syed Sarwar Hossain, along with (1) Lt Col Syed Faruqor Rahman, (2) Lt Col Sultan Shahrir Rashid Khan, (3) Lt Col Mohiuddin (artillery), (4) Honorary Captain Abdul Wahab Joarder, (5) Taheruddin Thakur, a former State Minister for Information, (6) Zobiaida Rashid, and absconding (7) Lt Col Khandokar Abdur Rashid, (8) Major Bazul Huda, (9) Lt Col A. H. M. B Noor Chowdhury, (10) Lt Col Shariful Haq Dalim, (11) Lt Col Aziz Pasha, (12) Lt Col Rashed Chowdhury, (13) Major A. K. M. Mohiuddin Ahmed (lancer), (14) Risaldar Muslehuddin alias Moslemuddin, (15) Major Ahmed Shariful Hasan, (16) Captain Mohammad Kismat Hashem, (17) Captain Lt Nazmul Ansar, (18) Captain Abdul Majed, (19) Dafadar Marfat Ali Shah and (20) L. D. Abul Hashem Mridha.

According to article 265(Gha) of the criminal procedure, when the court, upon hearing the detailed deposition of the prosecution and the defence, and scrutinising the documented papers and information, read the charges on three counts of criminal act under the penal code 120B/302/34/201

and asked the 20 living accused for comment, all of them pleaded not guilty. It may be mentioned that learned lawyers, appointed by the state, represented the accused.

Accused Zobiaida Rashid was relieved of the charges in a revision suit by a High Court division.

Thereafter, under Article 342 of the criminal procedure, the court, upon taking into account the evidence set forth by the prosecution, separately explained the charges pressed against them to the remaining 19 and asked for their comments. The accused present in the court, (1) Lt Col Syed Faruqor Rahman, (2) Lt Col Sultan Shahrir Rashid Khan, (3) Lt Col Mohiuddin (artillery), (4) Honorary Captain Abdul Wahab Joarder, and (5) Taheruddin Thakur once again pleaded not guilty but did not come up with any witness. However, Taheruddin Thakur gave a verbal statement (which the court documented) and the others submitted written statements.

The court, upon scrutiny, review and analysis of the verbal, documented, informative, circumstantial evidence and *alamat* presented, has come to this conclusion that the accused in this case: (1) Lt Col Syed Faruqor Rahman, (2) Lt Col Sultan Shahrir Rashid Khan, (3) Lt Col Mohiuddin Ahmed (artillery), absconding (4) Lt Col Khandokar Abdur Rashid, (5) Major Bazul Huda, (6) Lt Col

Shariful Haq Dalim, (7) Major Shariful Hossain alias Sharful Hossain, (8) Lt. Col A. M. Rashed Chowdhury, (9) Major A. K. M. Mohiuddin Ahmed (lancer), (10) Lt Col A. H. M. B Noor Chowdhury, (11) Lt Col Aziz Pasha, (12) Captain Mohammad Kismat Hashem, (13) Captain Lt Nazmul Ansar, (14) Captain Abdul Majed, and (15) Risaldar Moslemuddin alias Muslehuddin have been found guilty beyond any doubt in the charges brought against them under Penal Code 302/34 and 120 (Ka) of shooting the then President Bangabandhu Sheikh Mujibur Rahman, his family, his relatives and others to death at his 677 Dhanmondi residence at approximately five in the morning on August 15, 1975, according to a pre-planned conspiracy.

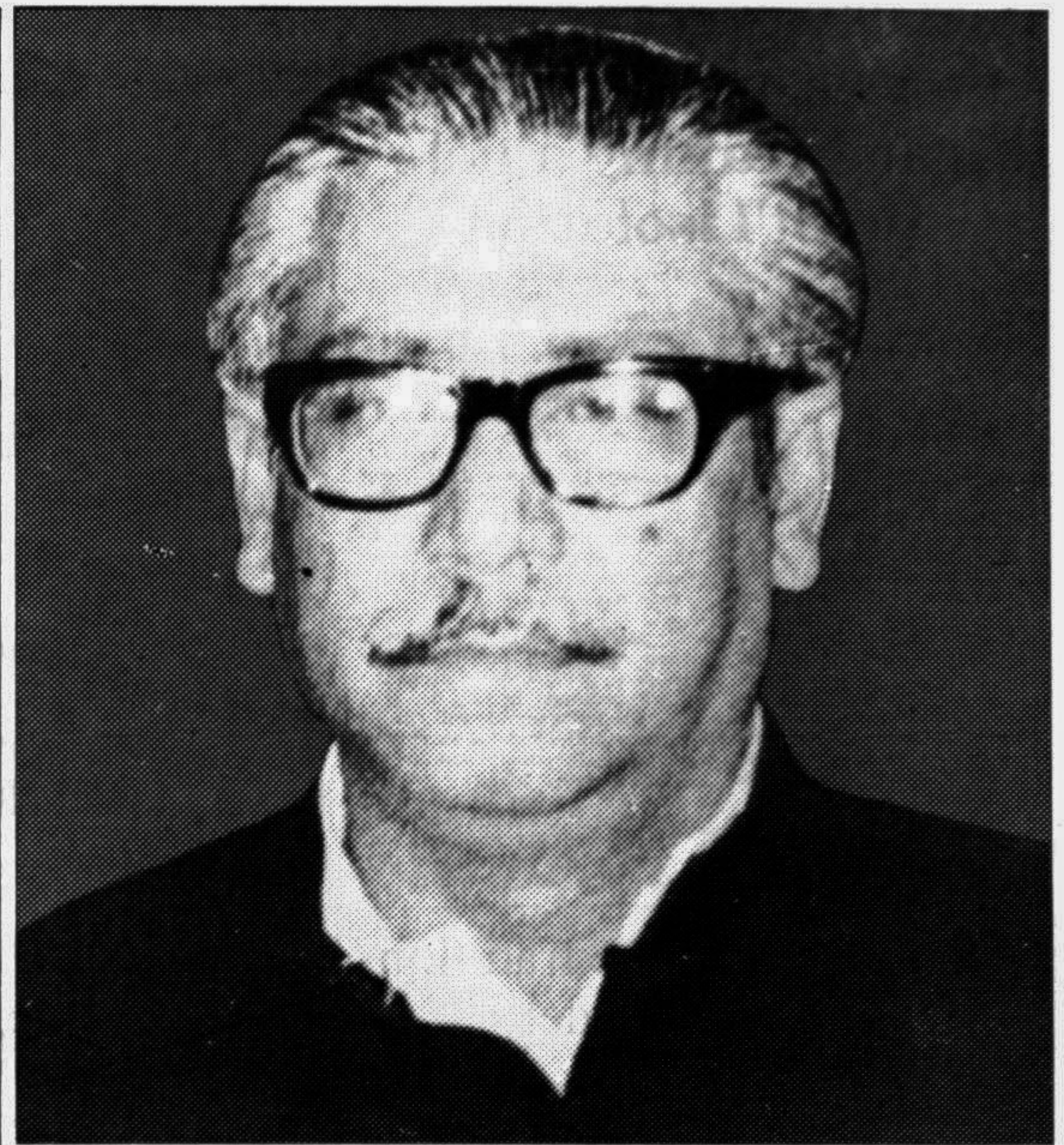
After the incident some of the killers also showed the audacity of boasting as the self-confessed killers at home and abroad. The incident is not only ruthless. In this incident, they also shot two newly-wed women and a ten-year-old boy to death. It may be mentioned that it is a crime which hurt not only certain individuals but also the society and the state. It is seen that the criminals have carried out the conspiracy in a planned manner despite being aware of its dreadful consequence. Therefore, there is no logic in showing sympathy or leniency towards them. They are not fit for any such leniency. Decision has been taken to sentence each of them to death according to Penal Code 302/34. No further punishment is ordered in the charges brought against them under Penal Code 120-Ka.

Since the charges brought against them have not been proved beyond doubt, it is decided that accused (1) Taheruddin Thakur, (2) Honorary Captain Abdul Wahab Joarder, (3) Dafadar Marfat Ali Shah and (4) L. D. Abul Hashem Mridha be acquitted.

Therefore, it is ordered, according to the decision made in this case, accused (1) Lt Col Syed Faruqor Rahman, (2) Lt Col Sultan Shahrir Rashid Khan, (3) Lt Col Mohiuddin Ahmed (artillery), absconding (4) Lt Col Khandokar Abdur Rashid, (5) Major Bazul Huda, (6) Lt Col Shariful Haq Dalim, (7) Major Shariful Hossain alias Sharful Hossain, (8) Lt. Col A. M. Rashed Chowdhury, (9) Major A. K. M. Mohiuddin Ahmed (lancer), (10) Lt Col A. H. M. B Noor Chowdhury, (11) Lt Col Aziz Pasha, (12) Captain Mohammad Kismat Hashem, (13) Captain Lt Nazmul Ansar, (14) Captain Abdul Majed, and (15) Risaldar Moslemuddin alias Muslehuddin are sentenced to death under Penal Code 302/34 and are to be executed by a firing squad in public.

According to the decision, if the authorities face any problem in executing the death sentence, they are ordered to carry out the execution by hanging the convicts to death under extant practice.

If not needed for any other case, acquittal of accused (1) Taheruddin Thakur, (2) Honorary Captain Abdul Wahab Joarder, (3) Dafadar Marfat Ali Shah and (4) L. D. Abul Hashem Mridha is ordered.



BANGABANDHU: Justice is finally done

Looking Back ...

Chronology of the trial

August 15, 1975: Bangabandhu was assassinated along with most of his family members. Total killed: 32. Only two daughters of Bangabandhu -- Sheikh Hasina and Sheikh Rehana -- survived as they were in abroad.

June 12, 1996: Awaraj League wins majority in general elections.

June 23, 1996: AL formed government with Sheikh Hasina as Prime Minister.

August 14, 1996: Col (ret) Syed Faruqor Rahman and Col (ret) Sultan Shahrir Rashid Khan were arrested.

October 2, 1996: After 21 years of assassination of Bangabandhu, a case was filed with Dhanmondi thana. Plaintiff Mohitul Islam, a resident personal assistant of Bangabandhu, said the case could not be filed earlier due to adverse situation.

October 3, 1996: Investigation into the case began. ASP Abdul Kahhar Akand of Criminal Investigation Department is the investigation officer.

November 2, 1996: Zobiaida Rashid, wife of Col (ret) Abdur Rashid, was arrested.

November 12, 1996: Indemnity (Repeal) Bill was passed in parliament.

January 15, 1997: Charge-sheet was submitted to the CMM's Court after three and a half months (108 days) of investigation. Some 450 people, both civil and military, were

interrogated. The chargesheet is under Sec 147, 148, 302, 34 and some other sections of the CrPC.

Total accused: 20. (4 kept outside the chargesheet as dead).

Number of witnesses: 72. Number of documents: 46. January 20, 1997: Arrested accused were produced before the court.

January 28, 1997: Indemnity (Repeal) Bill was declared valid by the High Court after a 13-day hearing.

February 3, 1997: Notification was issued by newspapers asking the absconding accused to appear before the court.

February 20, 1997: Accused were produced in CMM's Court.

March 1, 1997: The case was sent to District and Sessions Judge Court.

March 3, 1997: A special court was set up at Nazimuddin Road near the Dhaka Central Jail.

Judge: Kazi Golam Rasul, District and Sessions Judge Court, Dhaka.

Eminent criminal lawyer Serajul Haq was appointed chief special PP by the government.

March 12, 1997: Trial of Bangabandhu Murder Case began at the special court. Court fixed March 24 for framing the charge.

April 7, 1997: After the date to frame charge, it was changed

five times on plea from the defence counsels. The charge was framed against 20 accused on the basis of three specific charges (Sections 302/34, 120 (Gha) and 201 of the CrPC). Four dead were kept outside from the charge. Charge framed against all the rest of the accused, including six arrested and 14 absconding. (Zobiaida Rashid was later relieved of the case by an order of the High Court).

July 6, 1997: Deposition and cross-examination began in the historic case.

July 20, 1998: Deposition and cross-examination completed. A total of 61 prosecution witnesses, including 39 of army, navy, airforce and BDR personnel, made deposition and were examined by the defence counsels, including the state appointed counsels for the absconding accused.

August 8, 1998: Five arrested accused in self-defence claimed that they are not guilty. They also informed the court about extraction of the confessing statement made to the magistrates earlier.

August 12, 1998: Argument began.

October 13, 1998: Argument completed. Case procedures also completed after 148 working days.

November 8, 1998: The day for verdict of the historic case.

— BSS and UNB



JUBILATION: Celebrating the return to civilisation

Blocking the Killers' Search for Loopholes
Selected Issues of the Trial: The Judge's Response

ISSUE NO 1

Whether the then president Bangabandhu Sheikh Mujibur Rahman, his family members and others, were shot dead in their own residence of Dhanmondi Road No 32, House No 677 on August 15, 1975 at about five in the morning.

THE then President Bangabandhu Sheikh Mujibur Rahman used to live with his family in his own house No.677 on Road No 32 in Dhanmondi, a prestigious and old residential area in Dhaka. Having two rooms on the second floor, the three-storey house could be termed as a two-and-a-half-storey one. The main gate of the house is on the southern side. In the east, west and north, residential houses of different periods are situated. The road is on the southern side. About 200 to 250 feet in the east, this road meets the Mirpur Road that stretches from the south to the north and in the west the road meets other road of the residential area. The guard shed of the Bangabandhu's house is situated 15 to 20 feet on the southern side of the road. In the south of the guard shed, the Dhanmondi lake is situated, stretching upto Mirpur Road in the east. In the south-eastern corner of the lake, adjacent to the Mirpur Road, a playing field/nursery is situated. Bangabandhu and his family members used to live on the first and second floors of the house. The lower floor used to be used as the PA cum Reception room and for other purposes. The prosecution claims that Bangabandhu and his family members were killed in that house. Witness No. 61, the investigation officer, proved the map of the place of occurrence as Exhibit-13 and contents Exhibit 14.

During the investigation of the case the investigation officer Abdul Kahar Akand has made 72 persons witnesses in the chargesheet by interrogating 450 persons from different walks of life. The prosecution summoned 61 persons to the

court. The informant AFM Muhitul Islam as Witness No.1 of the prosecution proved the FIR lodged by himself on 2/10/96 as Exhibit-1 and also proved his signature on the FIR as exhibit-1/1 and he corroborated the FIR by his deposition. Police Inspector Shafiqullah, Officer-in-Charge of Dhanmondi thana, witness No. 56, proved Exhibit No.8, case No 10(10)96 which he filed by taking the written FIR of the informant and also proved his signature, as exhibit No 8/1.

No 1 witness Muhitul Islam said that he had joined the government service in the then Prime Minister's Secretariat as an Assistant on 13 December 1972. In 1974 he was Resident PA-cum-Receptionist of the then President Bangabandhu Sheikh Mujibur Rahman. He was on duty from 8pm of August 14, 1975 until 8am of the following day. As he started his duty on time, he saw Police DSP Nurul Islam Khan, Inspector Khorshed Alam, a police officer of the Special Branch, other police personnel of different ranks and some guards of the Armed Forces on duty.

ISSUE NO 2:

Whether some derailed, dismissed and aggrieved personnel of the armed forces, conspiring with some politically ambitious persons to ascertain their individual and combined interests, carried out this murder in a pre-planned way and whether the accused persons were involved in the killing.

IT is seen from testimony of witnesses nos 11, 12, 13, 14, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 29, 32, 34, 35, 39, 40 and 41, that on the night of Aug 14, 1975 two regiments of the army stationed in Dhaka -- that is, the 1st Bengal Lancers and II Field Artillery -- were engaged in night parade/training. Although there was no provision for more than one regiment training/parading together, or training/parading with live ammunition, there

was an exception on that day.

... It is learnt from the testimonies that, with an aim to topple Bangabandhu and his government, Maj Rashid, Maj Faruq and Maj Dalim briefed the troops on training/parade, split them up into separate groups armed with tanks, artillery, arms and ammunition, and deployed them to different points.

Review of all the documentary evidence and eye-witness accounts have proven that Maj Huda, Maj Noor Chowdhury, Maj AKM Mohiuddin, Maj Aziz Pasha, Maj Faruq, Maj Dalim and others were directly or indirectly involved in the act committed at the home of Bangabandhu.

According to the testimony of aforementioned witnesses and other evidence show that a handful of sacked and vengeful officers of the army had conspired with a some political leaders particularly Khondker Moshtaq Ahmed before committing this act of murder. Khondker Moshtaq's close relative Maj Khondker Abdur Rashid played the principal role in implementing this conspiracy. Maj Faruq, Maj Shahrir, Maj Aziz Pasha, Maj Huda and others held meetings with Maj Rashid at the latter's village home, at Comilla's BARD, in the madrasah courtyard in Daudkandi, at the Salna High School in Gazipur, different homes and offices in Dhaka, and all the accused arrived at the same desire and drew up a plan. They implemented the plan at approximately 5am on Aug 15, 1975, through committing this act.

ISSUE NO 5:

Whether any third party committed this killing

DEFENCE counsel particularly the learned lawyer of accused Faruq, Khan Salfur Rahman, suggests that the accused are not involved in this incident, and that it was committed by a third party. To support his claim, he has

submitted some information from a recorded documentary evidence. However, since the accused have been proved beyond doubt to have been involved in this incident on the basis of evidence considered for Issue No 2, the question of the accused not being involved in the incident does not arise. And, no documentary evidence has been placed for record on the question of whether a third party was involved or not.

ISSUE NO 6:

Whether AFM Muhitul Islam's FIR was due to any unnecessary delay or whether the FIR caused any hamper to the trial.

THERE are no hard and fast rules about any time-limit for filing of FIRs in criminal cases, nor is there any law laying down any time-frame.

In this case, it does not appear that delayed filing of FIR has in anyway benefited prosecution or harmed the accused. ... Witness No 1 has testified that, when he went to the police station to file an FIR after the act was committed in the morning of Aug 15, 1975, he was told "You will die and get us all killed. Go away now, come back when the situation is favourable, file your FIR then". His FIR was not accepted at that time. Documentary evidence shows that the killers accused in this case were all given shelter/promoted at home and abroad by successive governments who came to power after the incident. Therefore, Prosecution has claimed that until the present government came to power, it was not safe to file an FIR related to this case. It should be mentioned here that this is an exceptional case. The situation after the incident, the relations between successive governments with the killers of Bangabandhu and the overall environment after the incident suggest that it was not a fault to file the FIR late. Because, delayed filing of FIR can be relevant in adverse situations.

Besides, no relative of



THE JUDGE: Kazi Golam Rasul steps into history

Bangabandhu was left alive at the scene of the crime. The man who filed the FIR is an eye-witness. He is an appropriate person to file the FIR. The court finds his explanation for filing the FIR late quite satisfactory.

In addition, it is seen from the testimony of witness no 56 the Officer-in-Charge of Dhanmondi Police Station, that Taiduddin Khan and Mohsinul Haque had filed FIRs prior to

the present FIR. But that FIR was not based on correct information and it related to genocide, which is why it was sent to higher authorities for decision. He could not say where it is now.

Scrutiny of documents show that notices have been published calling on fugitive accused to present themselves. Related courts have stated that the notice was properly published.

Through this, provisions of article 47 of the procedure code have been fulfilled.

ISSUE NO 7:

Whether the trial of this killing in this court is beyond jurisdiction of the military law

BECAUSE there are "military offenders" among the accused in this case, this court on 27-3-97 notified the chief of army staff to proceed with the case under article 2 of the 1958 Criminal Procedure Code (Military Offenders). In response to the notice, the army chief of staff informed this court on 2-4-97 that there is nothing in army laws to prevent those army personnel from being tried in a civilian court. Therefore, the court began the case following completion of formalities under article 549 of the procedure code.