

The verdict

Exactly two years, one month and six days after a Sessions Judge's Court handed down death sentence to 15 in the Bangabandhu Murder Case, a two-member Division Bench of the High Court pronounced its verdict on the Death Reference. While one judge upheld the lower court verdict in toto, the other acquitted five.

Justice Mohammad Ruhul Amin

In view of the discussions made herein before Death Reference, being Death Reference No. 30 of 1998, is accepted in part i.e. in respect of Lieutenant Colonel Syed Farook Rahman, Lieutenant Colonel Sultan Shahrir Rashid Khan, Lieutenant Colonel Khondaker Abdur Rashid, Major Md. Bazlul Huda, Lieutenant Colonel Shariful Hoque Dalim, BU, Lieutenant Colonel AM Rashed Chowdhury, Lieutenant Colonel AKM Mohiuddin (Lancer), Lieutenant Colonel SHMB Nur Chowdhury and Lieutenant Colonel Md. Abdul Aziz Pasha. Criminal Appeal No. 2616 of 1998 filed by Condemned Prisoner Lieutenant Colonel Syed Farook Rahman, Criminal Appeal No. 2604, of 1998 filed by Condemned Prisoner Lieutenant Colonel Sultan Shahrir Rashid Khan and Criminal Appeal No. 2613 of 1998 filed by Condemned Prisoner Major Md. Bazlul Huda are dismissed. The conviction of the aforesaid 9 (Nine) Condemned convicts under section 302/34 and 120B of the Penal Code is maintained and their sentence under section 302/34 of the Penal Code is maintained and their sentence under section 302/34 of the Penal Code passed by the learned Sessions Judge, Dhaka in Sessions Case No. 319 of 1997 is upheld. The Judgement and order of the learned Sessions Judge in No. 319 of 1997 is upheld. The Judgement and order of the learned Sessions Judge in so far as the same relates to the aforesaid 9 (nine) Condemned convicts is affirmed.

Death Reference so far the same relates to convict Captain Abdul Mazed is also accepted with modification of conviction and sentence. The conviction of the convict under section 302/34 of the Penal Code and sentence thereunder is set aside, but his conviction under section 120B of the Penal Code is maintained and his sentence to death is maintained as he was a party to the criminal conspiracy and thereby abetted in taking place the incident in the early hours of 15th August, 1975 in the house of the then President at road no. 32 wherein Bangabandhu Sheikh Mujibur Rahman and the members of his family were killed. The judgement and order of the learned Sessions Judge so far the same relates to in finding this Condemned convict Captain Abdul Mazed guilty under section 302/34 of the Penal Code and sentence passed thereunder is set aside, but the judgement and order of the learned Sessions Judge finding the Condemned convict guilty under section 120B of the Penal Code is maintained.

The Death Reference in so far the same relates to Lieutenant Colonel Mohiuddin Ahmed (Artillery), Major Ahmed Shariful Hossain, Captain Md. Kismat Hashem, Captain Nazmul Hossain Ansar and Risaldar Moslemuddin alias Moslehuddin is rejected. The Criminal Appeal No. 2617 of 1998 filed by Condemned Prisoner Lieutenant Colonel Mohiuddin Ahmed (Artillery) is allowed. The conviction of the aforesaid 5 (five) Condemned convicts (that is, Death Reference in respect of whom has been rejected) under section 302/34 and under section 120B of the Penal Code as well as their sentence under section 302/34 of the Penal Code passed by the learned Sessions Judge, Dhaka in Sessions Case No. 319 of 1997 is set aside. The judgement and order passed in Sessions case No. 319 of 1997 in so far the same relates to the aforesaid 5 (five) Condemned convicts is also set aside. These 5 (five) Condemned convicts are acquitted of the charges levelled against them.

The sentence of death, in respect of whom Death Reference has been accepted, would be executed as per existing mode of execution of sentence of death.

Justice ABM Khairul Haque

In view of the reasons set out above in this judgement, the conviction of the offence under section 302 read with Section 34 of the Penal Code is confirmed as against accused Lt Col Syed Faruk Rahman, Lt Col Sultan Shahrir Rashid Khan, Lt Col Mohiuddin Ahmed (Artillery), Lt Col Khandker Abdur Rashid, Major Bazlul Huda, Lt Col AM Rashed Chowdhury, Lt Col AKM Mahiuddin Ahmed (Lancer), Lt Col SHMB Nur Chowdhury, Lt Col Abdul Aziz Pasha, Capt. Md. Kismat Hashem, Capt. Nazmul Hossain Ansar, Capt. Abdul Mazed, Risaldar Moslemuddin alias Moslehuddin.

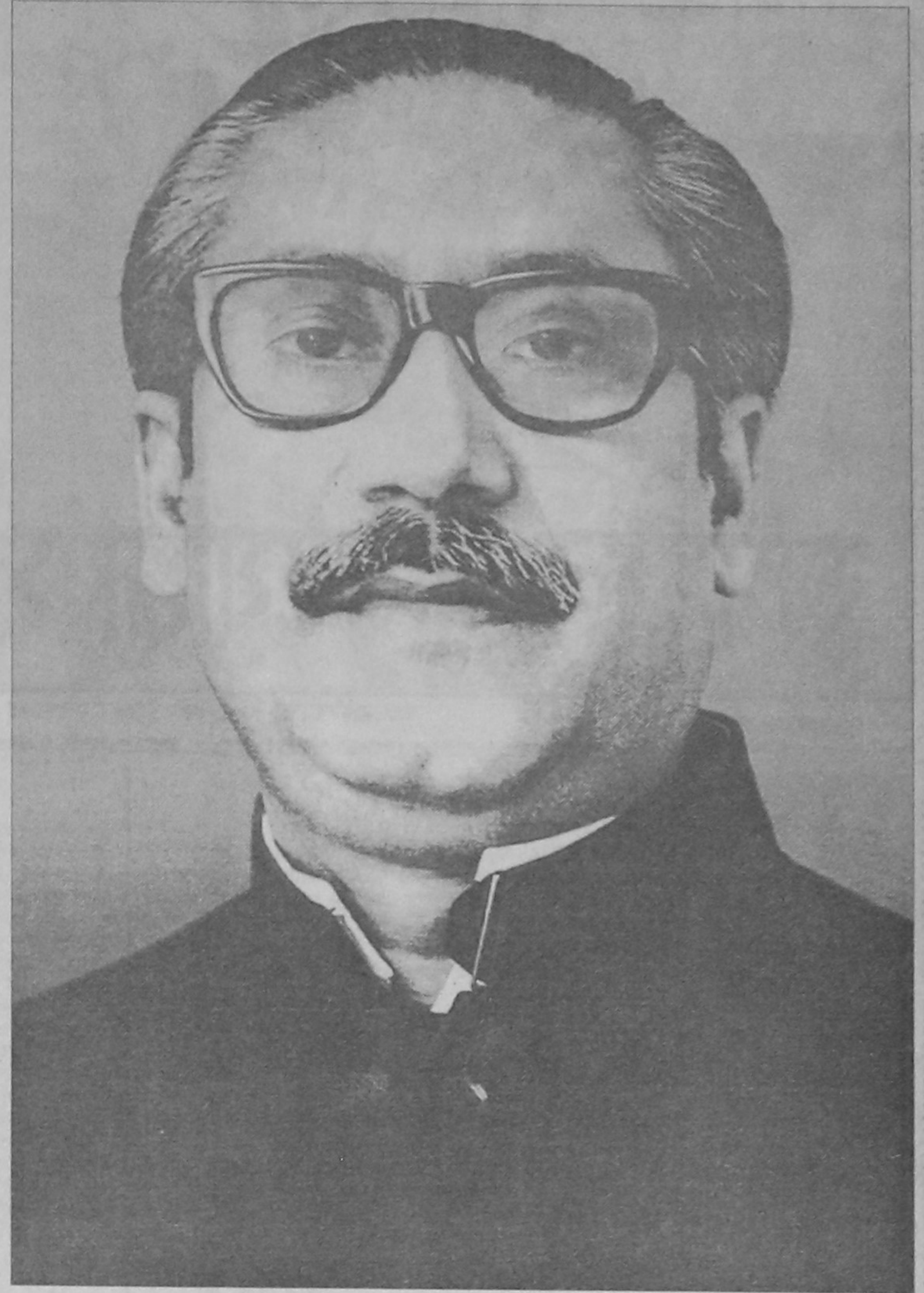
The conviction under section 120B of the Penal Code passed against all of them is also confirmed. In view of the observations made above that there is no extenuating or mitigating circumstances in the case, the sentence of death under section 302/34 passed by the learned Sessions Judge upon the accused, 1. Lt Col Syed Faruk Rahman, 2. Lt Col Sultan Shahrir Rashid Khan, 3. Lt Col Mohiuddin Ahmed (Artillery), 4. Lt Col Khandker Abdur Rashid, 5. Major Bazlul Huda, 6. Lt Col Shariful Huq Dalim, 7. Major Ahmad Sharful Hossain in alias Shariful Islam, 8. Lt Col AK Rashed Chowdhury, 9. Lt Col AKM Mohiuddin Ahmed (Lancer), 10. Lt Col SHMB Nur Chowdhury, 11. Lt Col Abdul Aziz Pasha, 12. Capt. Md. Kismat Hashem, 13. Capt. Nazmul Hossain Ansar, 14. Capt. Abdul Mazed, 15. Risaldar Moslemuddin alias Moslehuddin, is hereby affirmed. Their said sentence shall be executed in accordance with the provisions of law as discussed above. The order passed by the learned Sessions Judge in respect of their offence under section 120B of the Penal Code is maintained.

The Criminal Appeal No. 2604/98, CrI. Appeal No. 2613/98, CrI. Appl. No. 2616/98, CrI. Appl. 2617/98 are dismissed.

In the result, the Death Reference No. 30 of 1998 is accepted in respect of all the accused mentioned above.



Defence lawyers come out of the court after pronouncement of the split verdict.



Chronology of the trial

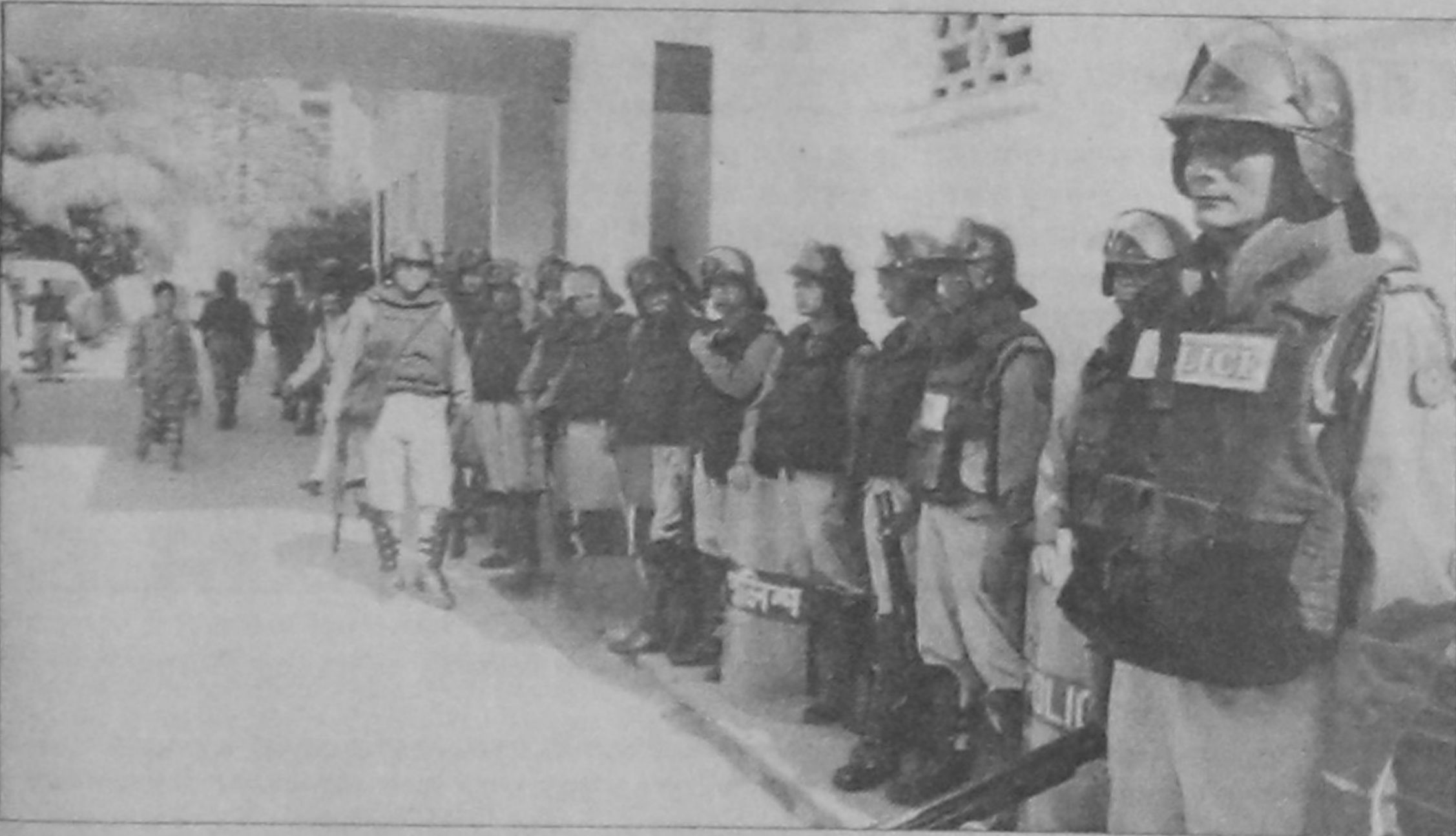
A two-member Division Bench of the High Court yesterday delivered a split verdict on the Death Reference in the Bangabandhu Murder Case. Following are the key incidents leading up to the verdict:

- June 12, 1996...** Awami League under Sheikh Hasina returns to power in general elections.
- August 14, 1996...** Police arrests former lieutenant colonels Sayed Farook Rahman, Colonel Sultan Shahrir Rashid Khan and former state minister Taheruddin Thakur on charges of plotting the 1975 jail massacre to be charged later with the Bangabandhu's assassination.
- October 2, 1996...** AFM Mohitul Islam, the then resident PA to the president, lodges the First Information Report (FIR) with police.
- October 3, 1996...** CID police takes up the case and launches investigation into the August 15, 1975 murder of the Father of the Nation.
- November 12, 1996...** Parliament scraps the Indemnity Act removing the legal bar in trying the killers.
- January 15, 1997...** CID submits charge sheet against 20 accused naming 74 prosecution witnesses at the Dhaka's Chief Metropolitan Magistrate's (CMM) Court after 108 days of investigation.
- January 20, 1997...** Arrested accused appear in CMM Court.
- January 28, 1997...** High Court rejects a defence plea questioning the scrapping of the Indemnity Act.
- February 3, 1997...** CMM Court issues newspaper notification ordering absconding accused to surrender to face the trial.
- March 1, 1997...** CMM sends the case to the court of Dhaka district and sessions' judge for trial on completion of legal formalities.

- March 12, 1997...** Trial starts as six arrested accused appear in court.
- March 20, 1997...** Government appoints 14 lawyers to defend 14 absconding accused fled or went into hiding abroad after the election of Awami League government.
- April 6, 1997...** Court hears charges against the accused.
- April 7, 1997...** Court formally indicts (charge frame) the accused.
- April 21, 1997...** Trial abruptly adjourns on the first day of hearing as accused Zobaidda Rashid's (wife of fugitive sacked lieutenant Colonel Khondakar Abdur Rashid) lawyer moves "no-confidence" motion in HC against the trial judge.
- April 29, 1997...** Trial resumes after High Court rejected the defence motion but adjourned again for the second time on a defence plea that their petitions on setting of court venue are pending with HC.
- April 30, 1997...** High Court rejects the petition for changing court venue. May 4, 1997 High Court suspends trial for one month on a petition from Zobaidda's lawyer that he needs more time to settle an appeal to overturn his client's indictment.
- June 19, 1997...** Hearing of the trial is postponed for third time when the court resumed nearly after two months as Zobaidda's lawyer moves petition against her indictment in the High Court.
- July 6, 1997...** Trial starts with 19 accused after HC relieves Zobaidda of charges of plotting the Bangabandhu murder. Prime witness Mohitul Islam testifies before the court after a four-month delay.
- March 2, 1998...** Supreme Court rejects appeal against the scrapping of the Indemnity Act, after a 15-day hearing, removing the last barrier in the trial.
- July 9, 1998...** Bangladesh and Thailand sign extradition treaty to bring home sacked major Bazlul Huda, one of the two men who allegedly shot Bangabandhu

- dead.
- July 21, 1998...** Hearing of the last of the 61 prosecution witnesses (out of listed 74 PWs) ends with the cross-examination of the case's investigating officer, Abdul Kahhar Akhand.
- August 5, 1998...** The accused claim innocence as the testimony of witnesses' end.
- August 12, 1998...** The argument between prosecution and defence lawyers starts with the statement of chief prosecution counsel Serajul Huque.
- October 13, 1998...** The 17-month trial process ends on the 146th day with the end of arguments between the lawyers.
- November 8, 1998...** Judge Kazi Golam Rasul hands down death sentence to 15 former army officials.
- November 8, 1998...** Thailand returns convicted former major Bazlul Huda under an extradition treaty.
- November 11, 1998...** The case documents of the case are sent to Supreme Court for record and review.
- April 24, 2000...** The case is recorded in the cause list for death reference and appeal hearing.
- June 28, 2000...** Death reference and appeal hearing of the case begins in High Court.
- June 28, 2000...** Hearing on the case begins with defence submissions.
- November 28, 2000...** Hearing ends as court announces the case "awaiting verdict".
- December 14, 2000...** Division Bench of High Court delivers a split verdict on the Death Reference.

-- BSS.



Security was stepped up on the court premises.



The usually busy stretch of road from Shahbagh to Sheraton Hotel sported a deserted look.



Echoing public sentiment ... a human chain spells its expectations clear