

Summary of ICT verdict in Sayeedi Case

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43.Charge No. 3:- That on 4 May, 1971 accused along with Pakistani Army went to Masimpur Hindu para and looted goods from the house of Monindra Nath Mistri and Suresh Chandra and committed large scale destruction by setting fire on the houses of following villages namely Kalibari, Masimpur, Palpara, Sikarpur, Razarhat Kukarpara, Dumoritala, Kadomtola, Nawabpur, Alamkuthi, Dhukigathi Parerhat and Chinrakhati and thereby committed offence specified in section 3(2)(a) of the Act.

44.Charge No. 4:- That on 4 May, 1971 the accused along with Pakistani forces in a planned way surrounded Hindu Para located in front of Dhopa Bari under Pirojpur Police Station with intent to destroy Hindu Civilians and thereby killed Debendra Nath Mondal, Jogendra Nath Mondal, Pulin Bihari, and Mukando Bala by gun-shot. Accused has committed crimes of genocide specified in section 3(2)(c)(I) of the Act.

45.Charge No. 13:- That about 2/3 months after the start of the Liberation War in one night the accused along with members of Peace Committee and Pakistani Army raided the house of Azhar Ali of Village Nalbunia and caught him with his son Shaheb Ali then accused tortured them and abducted Shaheb Ali and he was taken to Pirojpur and ultimately he was killed and his dead body was thrown in the river. The accused committed the crimes against Humanity specified in section 3(2)(a) of the Act.

46.We have perused the statements of the following witnesses namely Asishkumar Mondal (Exbt. No. 254) Sumati Rani Mondal (Exbt. No. 265) Sitara Begum (Exbt. No. 266) and Md. Mostafa (Exbt. No. 267). It transpires from the statements of seven witnesses that they narrated the occurrences of relating to charge Nos. 1 to 4 and 13 before the investigation officer but they did not turn up before the Tribunal to prove said charges brought against the accused.

47.Mr. Syed Haider, the learned prosecutor stressed much on the acceptance of the statement of witnesses as reliable evidence on the plea that the provision of law provided under section 19(2) of the Act has empowered the Tribunal to receive statement of witnesses as evidence subject to un-availability of those witnesses.

48.Mr. Abdur Razzak the learned defence counsel drew our attention to the documents submitted by the defence and submitted that the alleged witnesses are neither dead nor unavailable persons and as such the Tribunal cannot rely upon so-called statements of witnesses as evidence under section 19(2) of the Act. In support of his contention, Mr. Abdur Razzak cited 3 decisions in the cases of windisch Vs. Australia ECTHR, Al-Khaawaja and Tahery Vs. the United Kingdom ECTHR-2009 1996 -11 No.6.

49.Facts remain that the prosecution could not produce any oral or documentary evidence to prove the occurrences mentioned in charge Nos. 1,2,3,4 and 13 except statement of seven witnesses recorded by the investigation officer under section 19(2) of the Act. It is undisputed that not a single maker of those statements has been examined to prove the occurrences and as such it is undeniable that the defence did not get an opportunity to cross-examine those makers of statements to find out the truth. The statements of witnesses recorded by the investigation officer are always considered as unsafe documents and if the maker of such statement is not confronted during trial, such unsafe statement loses its credibility.

50.Having considered the legal aspects of those statement of witnesses, we are of the opinion that the statements of witnesses recorded under section 19(2) of the Act alone do not form the basis of conviction and such statement of witnesses may be used as corroborative evidence to prove a particular occurrence. It is further observed that the Tribunal may gather information about the conduct of the accused by using statement of witnesses but no one can be held criminally responsible solely on the basis of such statement of witnesses recorded under section 19(2) of the Act.

XIX.Adjudication of charge No. 5 (Killing of SDO, Magistate and S.D.P.O.)

51.That Mr. Saief Mizanur Rahman, the then Deputy Magistrate of Pirojpur Sub-Division (now District) organized Sarbo Dalio Sangram Parishad to inspire the people for participating in the War of Liberation. Knowing this fact, accused Delwar Hossain Sayeedi declared publicly to arrest him for his pro-liberation activities. On 5th May, 1971 the accused along with his associate Monnaf (now deceased), the member of Peace (Shanti) Committee accompanied with some members of Pakistani Army riding on a Military Jeep went to Pirojpur Hospital at noon where Mr. Saief Mizanur Rahman was into hiding.

Evaluation of evidence and findings:-

52.The prosecution has examined only one witness Saief Hafizur Rahman Khokon (PW-27) to prove charge No. 5. Upon scrutiny of the evidence adduced by PW. 27, it is found that during War of Liberation, three administrative officers of Pirojpur SubDivision namely Abdur Razzak S.D.O, Foyezur Rahman S.D.P.O. and Saief Mizanur Rahman, Magistrate (brother of PW. 27) were brutally killed by Pakistani Army. On getting the death news of his brother he went to pirojpur from Narail, he met Khan Bahadur Afzal who told him that one Monnaf identified his brother to Pak-Army and thereby three top officers were gunned down by Pakistani Army. He heard from Khan Bahadur Afzal and local people that one Monnaf and Delowar Hossain Sayeedi were in the vehicle of the Pak- Army, Evidence of PW. 27 is itself hearsay evidence but such evidence has not been corroborated by any local witness or by any documentary evidence. Prosecution has submitted some paper cuttings of daily news paper namely Dainik Janakanta dated 5.3.2001 as Exhibit-8 and Dainik Vorer Kagoge dated 4.11.2007 as Exhibit-11 which have narrated general atrocities allegedly committed by the accused, there is no allegation against him as to killing of aforesaid three officers in Pirojpur. Considering the evidence on record we are inclined to hold that the uncorroborated hearsay evidence adduced by P.W. 27 has got no provative value and as such charge No. 5 has not been proved beyond reasonable shadow of doubt.

XX.Adjudication of charge No. 6 (Looting of gold and goods from parerhat area)

53.That on 7th May, 1971 accused Delwar Hossain Sayeedi led a team of Peace (Shanti) Committee to receive Pakistani Army at Parerhat Bazar under Pirojpur Sadar Police Station, then the accused identified the houses and shops of the people belonging to Awami Legue, Hindu Community and supporters of the Liberation War. The accused as one of the perpetrators raided those shops and houses and looted away valuable including 22 seers of gold and silver from the shop of Makhanlal Saha. These acts are considered as crime of persecution on political and religious grounds as crimes against humanity.

Evaluation of evidence and finding:

54. The prosecution has examined as many as 8 witnesses to prove the atrocities committed by the Pakistani Army with the assistance of local perpetrators at Parerhat area during the War of Liberation in 1971. Upon critical analysis of the evidence adduced by PW. Nos. 1,2,3,4,8,9,12 and 13 it is found that accused Delowar Hossain Sayeedi along with local members of Peace Committee and Razakars wel-come about 52 Pakistani Army personnel headed by captain Ejaz at Parerhat on 7th May, 1971. Accused Delowar Hossain Sayeedi could speak in Urdu well which brought him to a close association of captain Ejaz. It is evident that all the attacks including looting of valuables made

by Pakistani Army coupled with local members of Peace Committee and Razakar Bahini were directed against unarmed civilian population specially targeting Hindu Community and liberation loving people. All the aforesaid 8 prosecution witnesses have categorically testified that on 7 May, 1971 accused Delowar Hossain Sayeedi was very much present at Parerhat and he took active part in all occurrences of looting of goods from 25/30 shops and houses of Hindus and Awami Leagues situated at Parerhat area under Pirojpur Sub-division. Aforesaid PWs have succinctly stated that accused Delowar Hossain Sayeedi, could speak in Urdu, so he used to accompany the Pakistani forces to the place of occurrences and identified shops and houses of pro-liberation people and Hindu Community for committing crimes such as looting of goods, setting fire on the houses of civilians, etc. The evidence discussed above, appears to be unshaken. It sufficiently indicates that the accused substantially contributed and facilitated to the crimes against Humanity with full knowledge. All the PWs. belong to same locality of the accused and they identified him in the dock. No doubt remains there as to identification of the accused. DW Nos. 1,3,13,14 and 16 have corroborated the barbarous atrocities such as genocide, rape , looting, arson, etc. committed by Pakistani Army and local members of Peace Committee and Razakar Bahini, but they intentionally did not utter the name of the accused as a perpetrator.

XXI.Adjudication of charge No. 7 (Torture on Shahidul Islam Selim and looting goods and setting fire on his house)

55.That on 8th May, 1971 at about 1.30 p.m. accused Delwar Hossain Sayeedi led a team of armed accomplices accompanied with Pakistani Army raided the house of Shahidul Islam Selim, son of Nurul Islam Khan of village Baduria under Pirojpur Sadar Police Station and he identified Nurul Islam Khan as an Awami Legue leader and his son Shahidul Islam Selim, a freedom-fighter, then the accused detained Nurul Islam Khan and handed over him to Pakistani Army who tortured him and after looting away goods from his house, the accused destroyed that house by setting fire. The act of destruction of the house by fire is considered as crime of persecution as crimes against Humanity on political ground and the accused also abetted in the torture of Nurul Islam Khan by the Pakistani Army.

Evaluation of evidence and findings

56.The prosecution has examined three witnesses to prove specially the occurrence of burning house of Shahidul Islam Selim son of Nurul Islam Khan of village Baduria by Pakistani Army with the assistance of accused Delowar Hossain Sayeedi. Upon critical analysis of the evidence adduced by PW. Nos. 1, 8 and 12, it is found that on 8 May, 1971, Pakistany Army along with 30/35 Razakars including accused Delowar Hossain Sayeedi went to village Baduria where the accused identified the house of Shahidul Islam Selim (Freedom Fighter) then the said house was destroyed by setting fire which was witnessed by P.W.8 Md. Mostafa Hawlader from other side of the Khal adjacent to that house. It is evident that Pakistani Army accompanied by Razakars went to village Baduria and destroyed a house of a freedom fighter by setting fire which is considered as a crime of persecution. It is further proved that the attack (setting fire) was directed against civilian population with intent to destroy a political group (freedom fighters).

57.It is further revealed from the evidence of D.Ws. 3,7 and 15 that they have categorically corroborated the prosecution case to that extent that on the date of occurrence the Pakistani Army along with some other people went to villege Baduria and they destroyed the house of Nurul Islam Khan by setting fire and they also destroyed some other houses of another village Chitholia on the same date.

58.The evidence adduced by PWs. and D.Ws are collectively scrutinized which indicates that Pak Army with intent to make a systematic attack in a large scale they destroyed the houses of two villages namely, Baduria and Chitholia on the same date with the assistance of local Razakars. From the evidence of aforesaid PWs it is found that the accused substantially contributed and facilitated the crime against Humanity with full knowledge as he was present at the crime sites.

XXII.Adjudication of charge no. 8 (Killing of Kutti and setting fire on the houses of Hindu Community of Parerhat area)

59.That on 8th May, 1971 at about 3.00 p.m. under the leadership of accused Delowar Hossain Sayeedi and his accomplices accompanied with Pakistani Army raided the house of Manik Posari of village-Chitholia under Pirojpur Sadar Police Station and caught his brother Mofizuddin and one Ibrahim @ Kutti therefrom. At his instance other accomplices after pouring kerosene oil on five houses, those were burnt to ashes causing a great havoc. On the way to Army Camp, the accused instigated Pakistani Army who killed Ibrahim @ Kutti by gun-shot and the dead body was dumped near a bridge, then Mofiz was taken to Army Camp and was tortured. Thereafter, the accused and others set fire on the houses of Hindu Community at Parerhat Bandar causing huge devastations. The acts of looting goods and setting fire on dwelling houses are considered as persecution as crimes against Humanity on religious ground. The accused directly participated in the occurrences of abduction, murder and persecution which are identified as crimes against Humanity.

Evaluation of Evidence and findings:

60.The prosecution has examined as many as 9 witnesses to prove the charge No. 8 relating to killing of Kutti and setting fire on the houses of Hindu Community of Parerhat areas under Pirojpur police station made by Pakistani Army and local Razakars headed by accused Delowar Hossain Sayeedi. Upon critical analysis of the evidence adduced by P.W Nos.2,4,6,7,8,9,10,11 and 12 it is found that on 8 May,1971, the Pakistani Army along with a good number of Razakars including accused Delowar Hossain Sayeedi came to the house of Manik Posari from where they caught victim Ibrahim alias Kutti, and Mofizuddin Posari. It is evident that on that day Pak-Army and local Razakars looted goods from different houses and set fire on the houses of Raisuddin Posari, Helaluddin Posari, Saizuddin Posari and Manik Posari, Nurul Islam Khan and others of village Baduria and Chitholia adjacent to Parerhat Bandar. It is evident from the evidence educed by aforesaid 9 witnesses that on seeding Pakistani Army and Razakars while Ibrahim alias Kutti and Mofizuddin Posari (PW-7) tried to flee away then the Razakars caught hold of them and fastened their hands by a rope and dragged them towards Parerhat Razakars Camp, on the way, near a bridge, Pakistani Army killed Ibrahim Kutti by gun shot and taking Mofizuddin to the Camp tortured upon him but in the night he managed to escape from the clutches of Razakars. P.W-7 Mofizuddin Posari is the eye witness of the killing of Ibrahim Kutti and he luckily saved his life by escaping from Razakar Camp. He categorically testified that accused Delowar Hossain Sayeedi as a member of Razakar Bahini caught them at crime site and ultimately Ibrahim was killed by Pak-Army, under the above circumstances, we find no reason to disbelieve evidence of PW-7 as to murder of Kutti, destruction of houses of civilians in a large scale by setting fire which constitute crimes against Humanity.

XXIII. Adjudication of charge no.9 (Attack on the house of Abdul Halim Babul and looting valuables and setting fire on it)

61. That on 02.06.1971 at about 9.00 a.m. under the leadership of accused Delwar Hossain Sayeedi with his armed associ-

ates accompanied with Pakistani Army raided the house of Abdul Halim Babul of village-Nolbunia under Indurkani Police Station and looted away valuables, then set the house on fire to ashes. The acts of burning house to ashes and looting goods therefrom are considered as persecution as crimes against Humanity.

Evaluation of evidence and findings:

62.It appears from the record that the prosecution has examined a good number of witnesses to prove the charges brought against the accused. It is evident that solitary witness PW-14 has been examined to prove the charge No.9 in respect of looting and burning of house of PW-14 who testified that according to S.S.C. certificate his date of birth is 06.06.1960. It can be presumed that during Liberation War he was at best a boy of 12/13 years old, under the above factual circumstances, we hold that on the part of a minor boy like PW-14, it was not possible to recognize accused Delowar Hossain Sayeedi and his associates from a distant place at the time of alleged commission of offence. Moreover, no co-villager of PW-14 has come forward to corroborate the occurrence as stated by PW-14. The evidence of PW-14 is considered weak type of evidence as well as uncorroborated one and as such the prosecution has failed to prove the charge no.9 beyond shadow of doubt.

XXIV. Adjudication of charge no. 10. (Killing of Bisabali and burning 24 hosues of Hindu para of village Umedpur)

63.That on the same day i.e. 02.06.1971 at about 10.00 a.m. under the leadership of accused Delowar Hossain Sayeedi with his armed associates accompanied with Pakistani Army raided the Hindu Para of village-Umedpur under Indurkani Police Station the accused burnt 25 houses including houses of Chitta Ranjan Talukder, Jahar Talukder, Horen Tagore, Anil Mondol, Bisabali, Sukabali, Satish Bala and others. At one stage Bisabali was tied to a coconut tree and at his insistence Bisabali was shot to dead by his accomplice. The act of burning dwelling houses of unarmed civilians is considered as persecution. The accused directly participated in the acts of burning houses and killing of Bisabali which is persecution and murder within the purview of crimes against Humanity.

Evaluation of evidence and findings:

64.The prosecution has examined 3 witnesses to prove charge No.10 relating to killing of Bisabali and burning of 25 houses of Hindu para of village Umedpur by Pakistani Army with the assistance of accused Delowar Hossain Sayeedi and his associates. Upon critical analysis of the evidence adduced by P.W. Nos.1,5 and 9 it is found that on 02.06.1971, Pakistani Army accompanied with local Razakars including accused Delowar Hossain Sayeedi attacked Hindu para of village Umedpur and after looting away valuables therefrom, they set fire on about 25 dwelling houses of unarmed civilians. It is evident that one civilian named Bisabali was caught and tortured by Razakars, thereafter victim Basabali was fastened with a co-conut tree and he was shot dead by a Razakar at the insistence of accused Delowar Hossain Sayeedi, PW-5 Mahtabuddin Howlader and PW-9 Altab Hossain Howlader have proved the occurrence of burning dwelling houses of unarmed vilivians of Hindu para as well as killing of Bisabali at the insistence of the accused as eye witness of the occurrences. The manner of setting fire on the houses of unarmed civilians gives sufficient indication that the perpetrators in a planned way burnt a Hindu para with intent to cause large scale devastation. It is also evidently revealed that the accused knowingly contributed and facilitated in the commission of killing of Biasbali and the act of burning huge number of dwelling houses by his presence and participation is considered as persecution. It is well proved that the accused was involved with the commission of murder and persecution within the purview of crimes against Humanity.

XXV. Adjudication of charge no.11 (Attack on the house of freedom-fighter Mahbulul Alam Howlader and looting away valuables therefrom)

65.That on the same day i.e. on 02.06.1971, accused Delwar Hossain Sayeedi led a team of Peace (Shanti) Committee members accompanied with Pakistani occupied forces raided the houses of Mahbulul Alam Howlader (freedom-fighter) of village-Tengra Khali under Indurkani Police Station and the accused detained his elder brother Abdul Mazid Howlader and tortured him. Thereafter, the accused looted cash money, jewellery and other valuables from their houses and damaged the same. The accused directly participated in the acts of looting valuables and destroying houses which are considered as persecution on political grounds, and also tortured.

Evaluation of evidence and findings:

66. The prosecution has examined two witnesses to prove the occurrence specified in charge No.11. Upon scrutiny of the evidence adduced by PW-1 and 5 it is evident that on 2nd June, 1971, Pakistani troops accompanied by members of local Peace Committee and Razakars including accused Delowar Hossain Sayeedi raided Hindu para at about 10 a.m to execute a part of plan, then at about 12 noon they raided the house of Mahabubul Alam Howlader (PW-1), freedom-fighter, but they failed to catch him, then they tortured Abdul Mazid who is the brother of PW.1 and looted away cash money, jewellery and other valuables from the house of Mahbulul Alam. The defence cross-examined P.W.1 and 5 elaborately but the version as to presence of accused Delowar Hossain Sayeedi at crime site remains unshakened. Having considered the evidence on record, we find that accused Delowar Hossain Sayeedi knowingly contributed and facilitated in the commission of looting valuables from the house of civilian population which is considered as persecution within the purview of crimes against Humanity.

XXVI. Adjudication of charge no. 12 (Genocide of 14 Hindus of Hindupara under Parerhat Bazar)

67. That during Liberation War on one day a group of 15/20 armed accomplices under the leadership of accused Delwar Hossain Sayeedi entered the Hindu Para of Parerhat Bazar under Pirojpur Sadar Police Station and captured 14 Hindus namely, Horolal Malakar, Aoro Kumer Mirza, Taronikanta Sikder, Nando Kumer Sikder and others, all were civilians and supporters of Bangladesh independence. The accused tied them with a single rope and dragged them to Pirojpur and handed over them to Pakistani Military where they were killed and dead bodies were thrown into the river. This act was directed against a civilian population with intent to destroy in whole or part of a religious group, which is genocide.

Evaluation of evidence and findings:-

68.The prosecution has examined as many as 28 witnesses to prove 20 charges as framed against the accused. It has been specifically mentioned in charge No. 12 that during the War of Liberation one day accused Delowar Hossain Sayeedi along with his 15/20 armed accomplices entered in the Hindu Para of Parerhat Bazar and caught 14 Hindu Civilian supporters of independence and after fastening those civilians with single rope they were dragged to Pirojpur and handed over them to Pakistani Army who killed them and their dead bodies were thrown into the river. On perusal of the evidence adduced by the PWs including (PW.1 and 12) it is revealed that no witness has narrated the story mentioned in charge No. 12 before this Tribunal. It is evident that prosecution witnesses have narrated different incidents involving the accused but none has entangled him with the commission of genocide in question.

69.The prosecution could not connect accused Delowar Hossain Sayeedi with the commission of genocide as described in charge No. 12. In view of the fact, we hold that charge No. 12 has not been proved against the accused.

XXVII. Adjudication of charge no. 14. (Attack on Hindu Para of Hoglabunia, rape of Shefali Gharami and setting fire on houses.)

70.That during the last part of the Liberation War, accused Delowar Hossain Sayeedi led a team of Razakar Bahini consisting of 50 to 60, in the morning of the of occurrence in a planned way they attacked Hindu para of Hoglabunia under Indurkani police station. On seeing them Hindu people managed to flee away, but Shefali Ghaarami, the wife of Modhu Sudhan Gharami could not flee away, then some members of Razakar Bahini entering into her room raped Shefali Gharami. Being the leader of the team the accused did not prevent them in committing rape upon her. Thereafter, the accused and members of his team set-fire on the dwelling houses of the Hindu para of village-Hoglabunia resulting complete destruction of houses of the Hindu civilians. The act of destruction of houses in the Hindu para by burning in large scale is considered crime of persecution on religious ground and the act of raping both as crimes against Humanity.

Evaluation of evidence and findings

71.The prosecution has examined a good number of witnesses out of them evidence adduced by PWs 1,3,4 and 23 are taken together for consideration. From the evidence adduced by P.W. 1,3 and 4 it is revealed that the accused Delowar Hossain Sayeedi was a member of Santi Committee and Razakar Bahini of Parerhat under Pirojpur, the then Sub-division . He, as a Razakar used to take part in committing rape, looting goods, torture, arson and killing members of Hindu community in Parerhat area during War of Liberation. The evidence adduced by P.W. 23- Madhu Sudan Gharami is very much important for adjudication the offence of rape committed upon his wife Shefali Ghorami. He testified that one day a group of Razakars attacked his house, at that time he was not present in his house. His wife Shefali Ghorami disclosed to him that she was raped by Razakars against her will. On query she told that she could not say the name of the rapist, but that man who converted him to Muslim raped her and, she also requested him to go away for security reasons. He testified that accused Delowar Hossain Sayeedi converted him to Muslim along with others under a threat that they would survive if they became Muslims otherwise not. He further testified that his wife gave birth to a child who was named Shandha but some people used to laugh at her recalling painful memories of her life, then she left for India in order to get rid of such humiliation . The evidence adduced by P.W. 23 as regards rape and forced pregnancy of his wife, is a crime within the purview of crimes against Humanity. Though the victim wife of P.W. 23 could not be examined as she was not available in Bangladesh, the evidence as regards commission of rape upon the wife of P.W. 23 cannot be disbelieved. Rwanda ICT Chamber observed in the case of the prosecutor Vs. Jean-Paul Akayesu under the caption “sexual violence as a constituent act of genocide” out of which a relevant portion of it is quoted below for understanding crime of rape as explained.

72.Second, the Trial Chamber identified the specific elements of the crime of rape for the first time in international law and distinguished sexual violence from rape. Although the Rwandan Tribunal had previously included rape among the enumerated acts that could constitute crimes against Humanity, it was in Akayesu that a Trial Chamber first defined rape as “ a physical invasion of a sexual nature committed on a person under circumstances which are coercive.” Sexual violence was broadly defined as “ any act of a sexual nature which is committed on a person under circumstances which are coercive.” Such an act, the Trial Chamber declared, could involve dignity harms that did not involve penetration or even physical contact. For example, the instance of a student being forced to publicly undress and do gymnastics in the nude was found to constitute sexual violence.

73.In the instant case, P.W. 23 has categorically testified that accused Delowar Hossain Sayeedi was one of the Razakars who on the date of occurrence raided his house and some of them committed rape upon his wife. Considering the above circumstances, we are led to hold that the accused as a member of Razakar bahini was present in the crime site having full knowledge about the said crime of rape and he substantially contributed and facilitated in the commission of said crime.

XXVIII. Adjudication of charge no.15 (Last part of Liberation War, 1971 at Hoglabunia Village ten (10) Civilians were killed and were thrown in the river)

74.That during the last part of the Liberation War, 1971 accused Delowar Hossain Sayeedi led 15/20 armed Razakars under his leadership and entered into the village-Hoglabunia under Indurkani Police Station, caught 10 (ten) Hindu civilians namely, Toroni Sikder, Nirmol Sikder, Shymkanto Sikder, Banikanto Sikder, Horolal Sikder, Prokash Sikder and others. The accused then tied all of them with a single rope with intent to kill and dragged them to Pirojpur and handed over them to the Pakistani Army where they all were killed and the dead bodies were thrown in the river. This conduct was directed against a population with intent to destroy religious group which is genocide.

Evaluation of evidence and findings:-

75.The prosecution has examined a good number of witnesses but in order to prove charge No. 15, only one witness PW. 23has been examined. PW.12 A.K.M. A.Awal M.P. has testified that accused Delowar Hossain Sayeedi was involved in the atrocious activities committed by local Razakars with the aid of Pakistani Army. Two statements of witnesses recorded by the investigation officer under section 19(2) of the Act, have been perused but those statements could not connect the accused with the commission of genocide alleged committed at village Hoglabunia. P.W. 23 Modhu Ghorami as an inhabitant of village Hoglabunia has testified that in one night 9 people of his village were abducted by unknown person and no trace of those 9 persons was found afterwards. P.W. 23 did not even suspect accused Delowar Hossain Sayeedi in the commission of alleged genocide.

76.Upon scrutiny of the evidence on record it transpires that prosecution could not produce any evidence before this Tribunal to connect the accused with the commission of crime of genocide as stated in charge No. 15.

XXIX.Adjudication of charge no.16 (Abduction of three women confinement and rape and abetment of offences)

77.That during the time of Liberation War in 1971, accused Delowar Hossain Sayeedi led a group of 10/12 armed Razakars and Peace Committee members and surrounded the houses of Gowranga Saha of Parerhat Bandor under Indurkani police station, subsequently the accused and others abducted (i) Mohamaya (ii) Anno Rani (iii) Komol Rani, the sisters of Gowranga Saha and handed over them to Pakistani Army Camp at Pirojpur where they were confined and raped for three days before release. The accused was directly involved in abetting the offences of abduction, confinement and rape as crimes against Humanity.

Evaluation of evidence and findings

The prosecution has examined some witnesses to prove charge No. 16 relating to abduction of three