

Present:

Mr. Justice Md. Shohrowardi

Criminal Appeal No. 8684 of 2021

Mrs. Mahmuda Khanom Shawpna

...Convict-appellant

-Versus-

The State and another

...Respondents

Mr. S.M. Shah Jahan, Advocate with

Mr. H.M. Shanjid Siddique, Advocate with

Mr. Biplob Kumar Das, Advocate

...For the convict-appellant

Ms. Sharmin Hamid, A.A.G with

Mr. Sultan Mahmood Banna, A.A.G

...For the State

Mr. ASM Kamal Amroohi Chowdhury, Advocate

...For the respondent No. 2 (ACC)

Heard on 19.01.2025, 26.01.2025,

27.01.2025, 28.01.2025, 02.02.2025,

09.02.2025, 17.02.2025, 25.02.2025 and

26.02.2025

Judgment delivered on 27.02.2025

This appeal under Section 10(1) of the Criminal Law Amendment Act, 1958 is directed challenging the legality and propriety of the impugned judgment and order of conviction and sentence dated 30.11.2021 passed by Special Judge, Court No. 9, Dhaka in Special Case No. 08 of 2017 (Metropolitan Special Case No. 23 of 2017) arising out of Ramna Model Police Station Case No. 42 dated 29.03.2016 corresponding ACC G.R. No. 159 of 2016 convicting the appellant under Section 26(2) of the Anti-Corruption Commission Act, 2004 and sentencing her thereunder to suffer imprisonment for 1(one) year and convicting her under Section 27(1) of the Anti-Corruption Commission Act, 2004 and sentencing her thereunder to suffer imprisonment for 3(three) years and fine of Tk. 21,72,242(twenty-one lakh seventy two thousand two hundred and forty two) and confiscating the said amount in favour of the state.

The prosecution case, in short, is that the appellant Mrs. Mahmuda Khanom Shawpna is the wife of Inspector of police Mostafizur Rahman and a notice under Section 26(1) of the Anti-Corruption Commission Act, 2004 was served upon her to furnish the statement of her assets and in compliance with the said notice, she submitted her statement of assets on 14.05.2015 stating that she acquired total assets of Tk. 1,71,03,045. P.W. 5 Md. Harunur Rashid and P.W. 6 Engineer Md. Abdul Mottalib submitted the assessment report of the house of the accused constructed on plot No. 38, Sector No. 14, Road No. 18, Uttara Dhaka stating that the total construction cost of the house was Tk. 1.61,12,183 but in the statement of assets dated 14.05.2015 the construction cost of the said house was shown Tk. 1,43,50,000. Therefore, she concealed the total assets of Tk. 17,62,183 and acquired total assets of Tk. 41,41,269 beyond her known source of income. After enquiry P.W. 1 Abu Bakar Siddique, the Deputy Director, Anti-Corruption Commission, Combined District Office, Dhaka-1 with prior approval of the Anti-Corruption Commission, lodged the FIR against the accused Mrs. Mahmuda Khanom Shawpna.

P.W. 10 Md. Nazim Uddin was appointed as Investigating Officer vide memo No. 23532 dated 06.06.2016. During the investigation, the Investigating Officer seized documents, recorded the statement of witnesses under Section 161 of the Code of Criminal Procedure, 1898 and after completing the investigation, submitted the memo of evidence and after getting approval on 25.01.2017, he submitted charge sheet on 31.01.2017 against the accused.

After that, the case record was sent to the Metropolitan Senior Special Judge, Dhaka who by order dated 07.06.2017 took cognizance of the offence against the accused under Section 26(2) and 27(1) of the Anti-Corruption Commission Act, 2004 and sent the case to the Special Judge, Court No. 9, Dhaka for trial. During the trial, the charge was framed against the accused under Section 26(2) and 27(1) of the Anti-

Corruption Commission Act, 2004, which was read over and explained to the accused present in Court and she pleaded not guilty to the charge and claimed to be tried following the law. The prosecution examined 11(eleven) witnesses to prove the charge against the accused. After examination of the prosecution witnesses, the accused was examined under Section 342 of the Code of Criminal Procedure, 1898 and she declined to adduce any D.W. After concluding the trial, the trial Court by impugned judgment and order, convicted the accused and sentenced her as stated above against which she filed the instant appeal.

P.W. 1 Abu Bakar Siddique was the Deputy Director, Anti-Corruption Commission, Combined District Office, Pabna. He stated that on 29.03.2016, he was posted as Deputy Director of Anti-Corruption Commission, Combined District Office, Dhaka. At that time, he was appointed as Enquiry Officer to enquire the E/R No. 31 of 2015. During the enquiry, the neutral engineer and the executive engineer assessed the house of the accused by a memo dated 27.12.2015 and on 24.01.2016, submitted the valuation report. During the enquiry, it was found that the accused Mrs. Mahmuda Khanom Shawpna is the wife of Inspector of Police Mostafizur Rahman. She purchased three kathas of plot being No. 38, road No. 18, sector No. 14, Uttara, Dhaka by registered deed No. 4287 dated 24.03.2005 at a price of Tk. 6,82,000 and constructed six six-story buildings of 1746.25 square feet flat on each floor. The Engineer of the Public Works Department assessed the valuation of the house and submitted a valuation report on 15.12.2015 stating that the total construction cost of the said house is Tk. 1,61,12,183. In the statement of assets submitted by the accused on 14.05.2015, the accused stated that the total construction cost of the said house is Tk. 1,43,50,000 and she concealed total Tk. 17,62,183 of the construction cost of the said house. Furthermore, she purchased furniture of total Tk. 98,500, got business capital of Tk. 1,92,336 and cash in hand Tk. 18,026, total movable property of total Tk. 3,08,862. Thus, she acquired total assets of Tk.

1,71,3045. In the return submitted by the accused from 2010-2011 to 2014-2015, the accused showed her total income of Tk. 1,33,96,726 and total expenditure was shown Tk. 4,35,000. Thus, she acquired total assets of Tk. 1,29,61,776. The total value of her assets was Tk. 1,71,3045. Thus, she acquired total assets of Tk. 41,41,269 beyond her known source of income and in the statement of assets dated 15.12.2015, she concealed the total assets of Tk. 17,62,183 for which he filed the case against the accused. He proved the FIR as exhibit 1 and his signature on the FIR as exhibit 1/1. He proved the approval dated 29.03.2016 to file the FIR against the accused as Exhibit 2. He proved the valuation report dated 27.12.2015 regarding the house of the accused constructed at Uttara as exhibits 3 and 3/1. He also proved the valuation report dated 24.02.2016 regarding the movable property of the said house as exhibits 4 and 4/1. During cross-examination, he stated that during the enquiry, no notice was served to the accused but notice was served upon the accused for interrogation. Nothing has been stated in the FIR whether any other officer conducted any enquiry regarding the property. The notice was served upon the accused to furnish the statement of her assets and accordingly, she submitted the statement. He could not say whether at the time of furnishing the statement of assets, Mostafizur Rahman Khan, husband of the accused Mahmuda Khanom Shawpna, was sick or not. The accused submitted her income tax return from 2010 to 2014-2015. The presumptive value of the furniture has been shown in the report (Exhibit 4). The accused took loan of Tk. 70,00,000 (seven lakh) for the construction of the house. He denied the suggestion that he submitted a wrong report stating the additional value through the expert. He admitted that selling her only property she constructed the house.

P.W. 2 Md. Alamgir Hossain was the Head Assistant of Taxes Circle 162, Taxes Zone-8, Dhaka. On 23.11.2016, while he was discharging his duty as Upper Division Assistant of the Taxes Circle

164, Taxes Zone-8, Md. Nazim Uddin, Sub-Assistant Director, Anti-Corruption Commission, Combined District Office, Dhaka-1, visited the Office of the Taxes Zone-8 and seized the income tax record of Mahmuda Khanom Shawpna. The Assistant Commissioner of Taxes Md. Bazlur Rahman presented the income tax record in the presence of Constable No. 473 Md. Shawkat Hossain. The return from 2010-2011 to 2015-2016, total 110 pages, were seized. He signed the seizure list. He proved the seizure list dated 23.11.2016 as exhibit 5 and his signature as exhibit 5/1. The seized documents were given into his custody. He proved the jimmanama as exhibit 6 and his signature on the jimmanama as exhibit 6/1. On 08.03.2017, he was transferred from that circle and handed over the documents to the custody of Upper Division Assistant Md. Saiful Islam. During cross-examination, he stated that he is not aware whether the N.B.R. has raised any objection regarding the tax paid by accused Mahmuda Khatun Shawpna.

P.W. 3 Md. Shawkat Hossain was a Constable of the Anti-Corruption Commission, Combined District Office, Dhaka. He stated that on 23.11.2016, he along with Sub-Assistant Director Md. Nazim Uddin went to the Taxes Circle 164, Taxes Zone-8. The Assistant Commissioner Gazi Md. Bazlur Rahman presented the Income Tax Record of TIN No.-250-1076-4509 (Old) and E.T.I.N No. 336722184638 (New), Taxes Circle-164, Taxes Zone-8, taxes year 2010-2011 to 2015-2016. The Sub-Assistant Director, Md. Nazim Uddin seized those documents and he signed the seizure list. He proved his signature on the seizure list dated 23.11.2016 as exhibit 5/2. He denied the suggestion that on 23.11.2016, he did not go to the tax office along with the Sub-Assistant Director.

P.W. 4 Md. Ruhul Amin was the Data Entry/Control Operator, Combined District Office, Anti-Corruption Commission, Dhaka-1. He stated that on 30.10.2016, while he was discharging his duty in the said office at 11.45 am Sub-Assistant Director Md. Nazim Uddin of the Anti-

Corruption Commission seized the certified copy of the deed No. 4287 dated 24.06.2005, a total of 7 pages, presented by Mahmuda Khanom Shawpna from his office. He signed the seizure list. He proved the seizure list dated 30.10.2016 as exhibit 7 and his signature as exhibit 7/1. During cross-examination, he stated that he did not write the date below his signature on the seizure list.

P.W. 5 Md. Harunur Rashid was the Executive Engineer, Public Works Department, Jhalakathi. He stated that based on the memo dated 31.08.2015 of the Anti-Corruption Commission and the memo No. 1732 dated 21.09.2015 issued by the Superintendent Engineer, Directorate of Public Works Department, he in presence of the Investigating Officer Abu Bakar Siddique, Mahmuda Khatun Shawpna, owner of the house, Sub-Assistant Engineer Abdul Mottalib and Sub-Assistant Engineer Ashraf Hossain on 29.10.2015 measured the building constructed on plot No. 38, road No. 18, sector 14, Uttara Dhaka. The owner of the plot informed that the house was constructed in 2011. Accordingly, following the schedule of the Public Works Department, he fixed the value of the building. According to their measurement, the total construction cost of the house was Tk. 1,61,12,183. After measurement on 15.12.2015 he submitted a report to the Executive Engineer, Public Works Department, Mohakhali, Dhaka. He proved the valuation report dated 15.12.2015 as exhibit 3 and his signature as exhibit 3/2. During cross-examination, he stated that he did not issue any letter to the accused regarding the measurement of the house taken on 29.10.2016. He could not say whether the disputed building was measured earlier or whether the total valuation of the house was measured at Tk. 1,40,00,000. He did not submit the rate of construction for 2011. He denied the suggestion that he submitted the report fixing the excess value of the house or he submitted the report following the instruction of the Investigating Officer.

P.W. 6 Md. Abdul Mottalib was the Sub-Assistant Engineer, Public Works Department, Uttara, Dhaka. He stated that on 29.10.2015, he discharged his duty in the said post. On 29.10.2015 he along with Sub-Divisional Engineer Md. Harunur Rashid and Sub-Assistant Engineer Md. Amirul Hossain measured the building constructed on plot No. 38, road No. 18, sector 14, Uttara Dhaka in the presence of the owner of the house and the Investigating Officer and submitted the report. He proved his signature on the report dated 14.12.2015 as exhibit 3/3. He denied the suggestion that on 29.10.2015, at the time of measurement the Investigating Officer was not present at the disputed house or he submitted a report as he wished.

P.W. 7 Haripada Sutradhar is a foreman of the Factory of Public Works Department. He stated that on 29.10.2015, while he was discharging his duty in the said office at the instruction of the S.O. Jinnatur Rahman and following the order dated 31.08.2015 of the Anti-Corruption Commission, he visited the house of the accused Shawpna. He took the measurement of the furniture made of wood. He measured the Almirah, Sofa, and Dressing Table. At that time, Md. Jinnatur Rahman, Sub-Assistant Engineer Rehan Ali, were present. Subsequently, Jinnatur submitted a report. During cross-examination, he stated that he measured the old furniture. On 29.10.2015, the accused could not show the money receipt. He could not say the correct date of purchasing the furniture. He could not ascertain the owner of the furniture.

P.W. 8 Md. Jinnatur Rahman is the Sub-Assistant Engineer of the Factory of the Public Works Department. He stated that in 2015, he was posted in the said office. The Superintendent Engineer by memo dated 21.09.2015 and the memo dated 31.08.2015 issued by the Anti-Corruption Commission, instructed him to measure the house of the accused. At that time, the Investigating Officer Abu Bakar Siddique, Sub-Divisional Engineer, Harun Or Rashid, Rehan Ali, and Sub-Assistant Engineer, Abu Motaleb, Ashraf Hossain, were present.

Mahmuda Khatun was also present there. In the presence of all, he measured the furniture of the house. The owner of the house could not give the money receipts of the furniture and accordingly, he fixed the value at Tk. 98,500. Accordingly, he submitted the report. He proved the report as exhibit 4 and his signature on the report as exhibit 4/2. The accused used old furniture. He denied the suggestion that they assessed the excess value of the furniture.

P.W. 9 Md. Rehan Ali was the Executive Engineer, E.M Department-11, Directorate of Public Works. He stated that in 2015, he discharged his duty as Sub-Divisional Engineer of the Wood Factory of the Public Works Department. Under the instruction contained in the memo dated 21.09.2015 issued by the Superintendent Engineer, Public Works Department and the memo dated 31.08.2015 issued by the Anti-Corruption Commission and the memo dated 23.09.2015 issued by the Executive Engineer, he measured the furniture on 29.10.2015 of the building of accused Mrs. Mahmuda Khanom Shawpna. At that time, Sub-Assistant Engineer Jinnatur Rahman, Haripada Sutradhar and the Investigating Officer Abu Bakar Siddique were present there. The accused Mahmuda Khanom Shawpna was also present there. The Officer of the Civil and E.M Department were also present. In the presence of all, the measurement of the furniture was taken. In the report, the value of the furniture was mentioned as Tk. 98,500. He proved the report as exhibit 4 and his signature as exhibit 4/3. During cross-examination, he stated that he took the measurements of the old, used furniture. He denied the suggestion that he had shown the access value in the report. He denied the suggestion that they did not measure the valuation correctly or that he submitted a false report, or that he deposed falsely.

P.W. 10 Md. Nazim Uddin was the Sub-Assistant Director, Anti-Corruption Commission, Combined District Office, Dhaka-01. Now he is retired. He stated that he was appointed as Investigating Officer of the case by memo No. 23532 dated 06.06.2016. The accused submitted the

statement of her assets on 15.05.2015. He proved the report as Exhibit 8. On 30.10.2016 at 11.45 am, he seized the deed of the plot No. 38, road No. 18, sector No. 14, Uttara Dhaka. He proved the seizure list as exhibit 7 and his signature on the seizure list as exhibit 7/2. He proved the alamat as material exhibit I. On 23.11.2016 at noon, he seized the income tax record of the accused Mahmuda Khanom Shawpna from the Office of the Taxes Circle 164, Taxes Zone-8, Dhaka. He proved the seizure list as exhibit 5 and his signature on the seizure list as exhibit 5/2. He handed over the documents to the custody of Upper Division Assistant Md. Alamgir Hossain. He proved the jimmanama as exhibit 6 and his signature on the jimmanama as exhibit 6/2. He purchased the said plot at the price of Tk. 68,2000 by registered deed No. 4287 dated 24.03.2005 and constructed a 5-storied building of 1746.25 square feet on each floor. The Enquiry Officer earlier took the measurements of the electric and the wood works of the building. As per the report, the total construction cost of the building was Tk. 1,61,12,183. In the statement of assets, the total construction cost of the building was shown at Tk. 14350000 and he concealed the total assets of Tk. 17,62,183 in the said house. In the statement of assets, he mentioned the total capital of her business at Tk. 192336 and cash Tk. 18026 and the furniture, total Tk. 3,08,862. The accused mentioned the total value of the movable and immovable property at Tk. 1,71,03,045. During the investigation, he found the total income of the accused at Tk. 13396726 and he found net income at Tk. 1,29,61,776. The accused concealed the total assets of Tk. 41,41,269 in the statement of her assets. In the statement of assets, the accused concealed total Tk. 17,62,183 and acquired total assets of Tk. 41,41,269 beyond her known source of income. He submitted the memo of evidence. The Anti-Corruption Commission vide memo No. 3197 dated 25.01.2017 had approved for submission of charge sheet against the accused. He proved the approval as Exhibit 9. After that, he submitted a charge sheet on 31.01.2017 against the accused. During the

investigation, the accused made a statement that she purchased land at Keraniganj at a price of Tk. 14.50 lakh which is true. She took a loan of Tk. 5,00,000 from her father and Tk. 8,00,000 from her sisters. She sold her land in Badda at a price of Tk. 38.50 lakh. She took a loan of Tk. 70,00,000 from One Bank. She also took loan of Tk. 5,00,000 from her mother. He stated that he seized the income tax record of the accused of the years 2010/11 to 2015/16. He denied the suggestion that there is no difference between the statement of assets submitted to the Anti-Corruption Commission and the statement made in the income tax return. He did not seize the layout plan of the house approved by the RAJUK. He did not seize any receipts regarding the purchase of the materials. No money receipt was submitted along with the valuation report of the house. He admitted that the accused sold 2 pieces of land valued at Tk. 38,50,000 and 14,50,000. He denied the suggestion that the Public Works Department submitted the report showing the access value of the building or the accused did not conceal any assets in her statement.

P.W. 11 Md. Aman Ullah Khan is the Inspector of Taxes Circle 164, Taxes Zone-8, Dhaka. He stated that on 23.11.2016, Sub-Assistant Director Md. Nazim Uddin of the Anti-Corruption Commission seized the income tax record of Mahmuda Khanom, presented by Bazlur Rahman. The income tax record of Mahmuda Khanom for the years 2010/11 to 2015/16, total 110 pages, was seized. The seized documents were given into the custody of Upper Division Assistant Alamgir. Thereafter, he was transferred. He produced those documents and presented them as material exhibits II series. Mahmuda Khatun obtained the certificate for the year 2017/2018. In the certificate, it has been mentioned that “Her Tax paid in full. Her assessment has been completed accordingly”.

Learned Advocate Mr. S.M. Shah Jahan appearing along with learned Advocates Mr. H.M. Shanjid Siddique and Mr. Biplob Kumar Das on behalf of the appellant submits that the accused Mrs. Mahmuda

Khanom Shawpna is the wife of Police Inspector Mostafizur Rahman and notice under Section 26(1) of the Anti-Corruption Commission Act, 2004 was served upon him and the value of the disputed house was earlier assessed at the instance of the Anti-Corruption Commission by the Engineers of the Public Works Department who submitted the report stating that the total construction cost of the disputed house was Tk. 1,40,00,000, and the construction value of the same house was reassessed at Tk. 1,61,12,183. He further submits that no assets of the accused were concealed by her and the Investigating Officer submitted the charge sheet showing the excess construction costs of the house. He also submits that the accused Mrs. Mahmuda Khanom Shawpna constructed the house with the income of her husband and no proceeding under Section 26 and 27 of the Anti-Corruption Commission Act, 2004, was initiated against her husband and the Investigating Officer maliciously submitted charge sheet against the accused showing the excess valuation of the house. The prosecution failed to prove the charge against the accused and the trial Court failed to consider that the value of the house of the accused was earlier assessed at a price of Tk. 1,40,00,000 and arrived at a wrong decision as to the guilt of the accused. He prayed for setting aside the impugned judgment and order passed by the trial Court.

Learned Advocate Mr. ASM Kamal Amroohi Chowdhury, appearing on behalf of the respondent No. 2 (ACC), submits that the accused failed to explain the assets of Tk. 21,72,242 acquired beyond her known source of income and concealed the total assets of Tk. 17,62,183 in her statement (exhibit 8). Having drawn the decision made in the case of *Osman Gani v. State* reported in 25 BLC (AD) 64 the learned Advocate submits that the Public Works Department are authorised to assess the construction cost of the building and the value of the furniture of the accused. Therefore, the reports, exhibits 3 and 8, were correctly submitted by the competent authority and the trial Court considering the

evidence adduced by the prosecution rightly passed the impugned judgment and order finding the accused guilty of the offence under Section 26(2) and 27(1) of the Anti-Corruption Commission Act, 2004.

I have considered the submissions of the learned Advocate Mr. S.M. Shah Jahan, who appeared on behalf of the appellant and the learned Advocate Mr. ASM Kamal Amroohi Chowdhury who appeared on behalf of the respondent No. 2 (ACC), perused the evidence, impugned judgment and order passed by the trial Court and the records.

On perusal of the evidence, it appears that the accused Mrs. Mahmuda Khanom Shawpna, is a housewife and her husband Mostafizur Rahman was the Inspector of Police. In compliance with the notice under Section 26 of the Anti-Corruption Commission Act, 2004, she submitted the statement of her assets on 27.05.2015 to the P.W. 1. In the said statement (exhibit 8) she stated that she constructed the house on the plot No. 38, road No. 18, sector 14, Uttara Dhaka at a cost of Tk. 1,43,50,000 and the total value of the furniture is 98,500. She acquired business capital of Tk. 1,92,336 and cash in hand Tk. 18,026, total Tk. 3,08,862. In the assessment report of the house (exhibit 3) submitted by the P.Ws 5 and 6, the construction cost of the said house has been mentioned at Tk. 1,61,12,183. Thus, there is a difference of Tk. 17,62,183 between Exhibit 8 and 3. As per the return submitted by the accused from 2010-2011 to 2014-2015, the net income was shown at Tk. 1,29,61,776. As per the report (Exhibit 3), the accused concealed the assets of total Tk. 17,62,183.

During cross-examination, P.W. 5 stated that, as per the valuation report, the total construction cost of the disputed house is Tk. 1,61,12,183. He admitted that he is not aware whether the disputed house was earlier measured or that in the valuation report made earlier the total value of the construction cost was mentioned at Tk. 1,40,00,000. The defence case that the disputed house including her movable and immovable property were earlier measured and assessed by the Public

Works Department at the instance of the Anti-Corruption Commission is not denied by P.W. 5 which corroborates the defence case that the notice under Section 26(1) of the Anti-Corruption Commission Act, 2004 was also served upon the Police Inspector Mostafizur Rahman, husband of the accused Mrs. Mahmuda Khanom Shawpna. Be that as it may, I am of the view that the valuation report submitted by P.Ws 5 and 6 (exhibit 3) appears to me as excessive and the statement made by the accused in the statement of assets (exhibit 8) that the total construction costs of the disputed house are Tk. 1,43,50,000 is true. Nothing has been concealed by the accused in her statement (exhibit 8) and at the instance of the Anti-Corruption Commission, the total construction costs of the house of accused was earlier assessed at Tk. 1,40,00,000 and the accused Mrs. Mahmuda Khanom Shawpna did not acquire any assets disproportionate to her known source of income.

In the case of Osman Gani Vs. The state reported in 25 BLC (AD) 64 para 19 that it has been held that

“The defence took another plea that the authority did not assess the market value of furniture, seized from his house, properly and rather the assessment has been made on the basis of the market rate prevailing after 14 years. Perusing Exhibit-28/7 it appears that the assessment of such furniture has been made by the engineer of Public Works Department (PWD) who is the authorised and appropriate person to assess the market value of that furniture. So, the submission of the learned advocate for defence finds no foundation in the eye of law.”

No explanation has been given by the Anti-Corruption Commission as to why no proceeding was initiated against Inspector Mostafizur Rahman, the husband of the accused Mrs. Mahmuda Khanom Shawpna. The accused is the wife of a government servant. Wife or any dependent of a government servant might have been prosecuted along

with her husband as an abettor. A wife or dependent of a public servant cannot be prosecuted without initiating any proceeding against the public servant. Therefore, I am of the view that the Investigating Officer maliciously initiated the proceeding against the accused Mrs. Mahmuda Khanom Shawpna without prosecuting her husband who was a government servant.

In view of the above evidence, findings, observation and the proposition, I am of the view that the prosecution failed to prove the charge against the accused beyond all reasonable doubt and the trial Court failed to interpret Sections 26 and 27 of the Anti-Corruption Commission Act, 2004 in its true perspective and arrived at a wrong decision as to the guilt of the accused Mrs. Mahmuda Khanom Shawpna.

I find merit in the appeal.

In the result, the appeal is allowed.

The impugned judgment and order passed by the trial Court against the accused Mrs. Mahmuda Khanom Shawpna is hereby set aside.

Send down the lower Court's records at once.