

**IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION
CRIMINAL PETITION FOR LEAVE TO APPEAL NO 100 OF 2006**

SUMMARY OF SUBMISSIONS

1. The Counter-Affidavit does not rebut the clear averment in the petition dated 30.4.2005 that accused Quyum had himself indicated before the Magistrate on 16.4.2005 that he wished to make a statement; but he was prevented from doing so on the ground that the investigation having been completed, the investigating officer could take no further step; hence no such statement could be made.
2. In the Counter-Affidavit (para 4) there is a manifest error to the effect that "...the learned Magistrate in his order, disclosed that the accused A.K.M. Quium denied giving a confessional statement under Section 164 of the Code of Criminal Procedure", when in fact in the penned through order it was stated that when a Section 164 statement would be received through the investigating officer then the appropriate step would be taken. The Magistrate had not stated that because of Quyum's refusal to make a statement he had not been produced before the Magistrate.
3. Sending this matter to the Speedy Trial Court itself is unwarranted and contrary to the public interest and the interest of justice because this is a matter where a thorough investigation is overwhelmingly in the public interest rather than a precipitate transfer to a Speedy Trial Court before a thorough investigation has been completed. Section 6 provides for transfer to the Speedy Trial Court only where such transfer is in the public interest. In the present case the transfer has the effect of preventing a thorough and complete investigation and through such investigation identifying the person/s and organization/s which are responsible. This would be possible through further enquiry with regard to the source from

where the grenade originated and was supplied (obviously from outside Habiganj). The recent arrests have revealed the operations of highly organized networks which receive finance and support from outside. It is imperative in the interest of national security that the heinous assassination of a person having a national and international standing of the late Mr Shah A.M.S. Kibria should be thoroughly investigated to trace its links inside and outside the country and clearly this is not achieved by a limited investigation within the confines of Habiganj.

4. Under Section 10 of the Speedy Trial Court Law it is provided that the trial should be completed within 90 working days of the transfer of the case with an extension, if there is sufficient cause, of another 30 days plus 15 days, that is a total of 135 working days. In the present case, therefore, if the matter is sent back to the Speedy Trial Court without a direction for further enquiry the Speedy Trial Court would be constrained by the time limits imposed upon it by Section 10 from directing further enquiry. This is a further ground why the Appellate Division may kindly grant leave to consider whether in the present circumstances a direction for further enquiry should not be made in the public interest and in the interest of national security which calls for a complete and in-depth investigation. And why in these circumstances sending the matter back to the Speedy Trial Court without such a direction is likely to result in a denial of justice and would be contrary to the intent and object of the Speedy Trial Court Law itself.