

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 164 of 2008

Md. Pappu Khan & Anr.

-Vs-

The State of West Bengal

With

CRA 317 of 2000

Khalil Molla @ Chattu & Ors.

-vs-

The State of West Bengal

For the Appellant (in CRA 164 of 2008)	: Mr. Debabrata Roy Mr. Arun Kumar Halder Ms. Sarbani Mukhopadhyay Mr. Soumik Mondal
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For the State	: Mr. Avishek Sinha
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For the Appellant (in CRA 317 of 2000)	: Mr. Safdar Azam Mr. Satadru Lahiri Ms. Ananya Dasgupta
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For the State	: Mr. Avishek Sinha
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Judgment on	: 10.06.2026
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Ananya Bandyopadhyay, J.:-

1. These appeals are preferred against the judgment and order dated 8th January, 2008 passed by the Learned Additional Sessions Judge, 14th Court, Alipore, South 24-Parganas in Sessions Trial Case No.2(9)/2002 and S.C.

No.73(7)/2002 whereby convicting the appellants under Sections 395/397/412 of the Indian Penal Code and thereby sentencing the appellants to suffer simple imprisonment for 7 (seven) years each and also to pay a fine of Rs.1,000/- each, in default, to suffer simple imprisonment for 2 (two) months each for the offence punishable under Section 395 of the Indian Penal Code and further sentenced to suffer rigorous imprisonment for 7 (seven) years each for the offence punishable under Section 397 of the Indian Penal Code, both the substantive offence imposed on each appellants to run concurrently.

2. The prosecution case briefly stated at about 2:00 a.m. on 25th March, 2002 while Nandalal Dhanuk and his family members were asleep in their quarters, at Calcutta Port Trust compound, a group of approximately seventeen young men entered the premises after removing the protective net fixed above the main entrance. The intruders, variously dressed in '*lungis*', trousers and half-pants, were armed with firearms, bhojalis, nepalas and iron rods. Upon entering the residence, they immediately placed the inmates under threat of deadly violence and demanded ornaments, money and other valuable articles.
3. When resistance was offered, the offenders assaulted the occupants with iron rods and the blunt portions of sharp-cutting weapons. The atmosphere created within the house was one of overwhelming fear, compelling the victims to surrender cash, ornaments and household articles. The prosecution alleges that the offenders thereafter warned the inmates against raising any alarm and directed them to remain confined within their rooms.

4. The assailants then proceeded to the neighbouring residence of Champa Devi. There also, by employing threats and coercion, they removed gold ornaments, silver articles, brass utensils and other valuables. The operation, according to the prosecution, reflected a common design shared by all members of the assembly, each participant acting in furtherance of the collective objective.
5. The complainant further asserted that Sambhunath Das was forcibly taken by the offenders from the residence of Champa Devi. A firearm was pressed against his forehead and, under compulsion, he was made to accompany them to the residence of Saraswati Dhanuk. Upon securing entry into that quarter, the offenders repeated their acts of intimidation and dispossessed the inmates of gold ornaments, silver articles, brass utensils and other movable property.
6. Based on the aforesaid complaint, South Port Police Station Case No.37 dated 25.03.2002 under Section 395/307 of the Indian Penal Code was initiated.
7. Upon conclusion of the investigation, the Investigating Agency submitted a charge-sheet against the appellants under Sections 395/397 and Section 412 of the Indian Penal Code.
8. Charge was framed against the appellants to whom they pleaded not guilty and claimed to be tried.
9. In order to prove its case, the prosecution examined as many as 24 witnesses and exhibited certain documents.

10. The prosecution case concerns a grave incident of armed dacoity committed during the early hours of 25th March, 2002 within the Calcutta Port Trust Servants' Quarters situated at Premises No.13/2, Remount Road. The evidence adduced by the prosecution portrays not a fleeting act of theft but a carefully executed invasion of residential quarters by a gang armed with revolvers, pistols, bombs, nepalas and iron rods, whose object extended beyond appropriation of property and embraced the subjugation of entire families through fear, violence and coercion.
11. The prosecution examined twenty-four witnesses. Amongst them, P.Ws.4, 6, 7, 8, 9, 12 and 13 constitute the core occurrence witnesses. Their testimony is reinforced by medical evidence, judicial identification proceedings, recovery of stolen property at the instance of the accused persons, seizure witnesses and the investigating officers.
12. P.W.4 Raju Kumar Dhanuk furnished a detailed account of the occurrence. He stated that he and his family resided at Premises No.13/2, Remount Road, comprising five servants' quarters. According to him, Sunil Dhanuk occupied Quarter No.1, Nandalal Dhanuk occupied Quarter No.2 and Champa Devi occupied Quarter No.3.
13. At about 2.00 a.m. on 25th March, 2002, Nandalal Dhanuk awoke from sleep and noticed unknown persons cutting the iron net fixed above the entrance door. One of the offenders entered through the aperture thus created and opened the main entrance from inside. Thereafter approximately six armed miscreants entered the room carrying revolvers, nepalas, bombs, iron rods and other weapons.

14. One of the intruders placed a revolver upon the head of Nandalal Dhanuk while others threatened the inmates and compelled them to remain seated. The almirah was broken open and the offenders demanded its key from the female members of the family. Threats of death accompanied their demand.
15. P.W.4 stated that his father was assaulted with a nepala and his mother sustained injuries upon her leg. Cash amounting to Rs.680/-, a wrist watch, bank passbook, silver ornaments, brass utensils and various household articles were removed. Garments and other contents of the almirah were thrown about the room. The offenders thereafter entered adjoining quarters and continued their criminal enterprise.
16. He identified accused Pappu Khan as one of the participants. He further identified recovered articles including a gold ring, silver chains, wrist watch and '*ghati*' as articles removed during the occurrence.
17. P.W.6, Saraswati Dhanuk another victim of the occurrence, described how armed offenders appeared before her quarter at about 2.30 a.m. She observed them pointing a pistol through a window opening. Upon raising alarm she saw the offenders place a pistol upon the head of her neighbour Sambhu Das and compel compliance.
18. After entry into the room, the offenders assaulted her husband Sunil Dhanuk with fists and blows and thereafter restrained him. She herself suffered assault upon her leg, head and face. One offender placed a bomb upon her head while another pointed a pistol towards her mouth.
19. The gang searched the bedding, recovered the key of the almirah concealed therein and removed valuable articles. When she failed to produce a gold

necklace demanded by the offenders, kerosene oil was poured upon the body of her minor son and threats were administered that he would be set ablaze.

20. The offenders removed a tape recorder, wrist watch, cash of Rs.1,500/-, gold ornaments and other valuables. She identified Khalil Molla as the offender who poured kerosene oil upon her child, Nazimuddin Halder as the offender who placed a pistol upon her mouth, Pappu Khan as the offender who assaulted her with an iron rod. She identified the accused during the Test Identification Parade and subsequently before the Court. She also identified recovered ornaments and articles.

21. P.W.7 Champa Devi corroborated the occurrence in material particulars. She stated that armed offenders arrived at her room at about 2.00 a.m., displayed firearms and threatened the inmates. Her son was tied with a chadar and valuables were removed. She identified accused Nazimuddin Mir alias Nazimuddin Halder and accused Pappu Khan both in jail during the Test Identification Parade and later before the Court. She also identified household articles recovered during investigation including utensils and other domestic articles removed during the dacoity.

22. P.W.8 stated that he resided in the servants' quarters with his mother, sister and nephew. During the night, unknown persons knocked upon the door and represented themselves as police personnel. Believing such representation, the occupants opened the door. Immediately thereafter the offenders entered, tied his hands and legs and similarly restrained other family members. The offenders removed cash and household articles while one among them pointed a revolver towards his grandmother. After

completing the looting operation they bolted the door from outside and departed. P.W.8 identified accused Khalil Molla as one of the participants.

23. P.W.9 deposed that armed offenders entered his room during the same transaction and assaulted his father and mother before removing valuables and household articles. He identified accused Saidul Kazi as one of the dacoits.

24. P.W.12 Nandalal Dhanuk was one of the principal victims. He stated that unknown persons cut the iron net fixed above the entrance door and entered his room during the night. The offenders threatened him and his family with firearms and bombs and assaulted them during the course of the dacoity. Valuable ornaments, utensils and household articles were removed. He testified that electric lights were burning within the room throughout the occurrence and therefore he had sufficient opportunity to observe the faces of the offenders. He identified accused Nazimuddin Mir and Pappu Khan both during the Test Identification Parade and before the Court.

25. P.W.13 Meena Debi stated that the offenders entered her room during the same occurrence, threatened the inmates and removed household effects and valuables. Her evidence supports the account given by the other victims regarding the manner in which the offenders moved through the quarters committing acts of violence and looting property.

26. P.W.18, the Learned Magistrate conducting the Test Identification Parade, proved the parade proceedings. The evidence reveals that Nandalal Dhanuk identified accused Nazimuddin Mir as one of the offenders. Several other witnesses including Meena Debi, Raju Kumar Dhanuk, Sarju Dhanuk,

Champa Devi, Santa Devi, Bishnu Hari, Sambhunath Das, Sushil Kumar Dhanuk and Saraswati Dhanuk also participated in the identification proceedings and identified various accused persons.

27. P.W.20, another Learned Magistrate, conducted a further Test Identification Parade at Alipore Central Jail wherein witnesses including Nandalal Dhanuk, Champa Devi, Santa Devi and Sambhunath Das identified accused Pappu Khan. Other witnesses identified Saidul Kazi and Khokan Shah.

28. P.W.23, the first Investigating Officer, reached the place of occurrence at about 5.45 a.m. after receiving information regarding the dacoity. He found articles lying scattered within the quarters and noted injuries upon the occupants. He recorded the statement of Nandalal Dhanuk which formed the foundation of the First Information Report. He summoned the photographer, fingerprint expert and plan maker, seized material objects and prepared the necessary records.

29. P.W.24, who completed the investigation, effected the arrest of accused Nazimuddin Mir, Khalil Molla, Saidul Kazi, Khokan Shah and others. During police custody several accused persons made disclosure statements leading to recovery of stolen property. Accused Khalil Molla led the police to a room near the railway track at Aynalpara, Santoshpur and produced a blue briefcase containing gold-coloured bangles. These articles were seized under a seizure list. Accused Nazimuddin Mir led the police to another premises and produced a brass tub, metal plate, brass bowl and metal ghati which he described as part of the booty. These articles were seized and marked as material exhibits. Accused Saidul Kazi led the police to a hut at

Thandarpara, Santoshpur and produced a ladies' wrist watch concealed inside a tin box. The article was seized in the presence of witnesses. Accused Khokan Shah subsequently led the police to a room and produced a nylon bag containing a brass plate and a black-coloured ladies' shawl, which he stated represented his share of the looted property. The articles were seized, labelled and sealed in the presence of witnesses. Recovery at the Instance of Pappu Khan. The evidence of P.W.24 assumes particular significance in relation to accused Pappu Khan. After his arrest, Pappu Khan made a disclosure statement indicating that part of his share of the booty had been pledged at a jewellery establishment. Acting upon that information, P.W.24 proceeded to the jewellery shop known as Putta & Brothers, Chasto Bhal Jewellers at Akra Station Road, Maheshtala. Accused Pappu Khan identified the proprietor Kamal Kumar Dutta as the person with whom the articles had been pledged. Upon examination of the mortgage register, Kamal Kumar Dutta produced three pieces of silver chains, six silver neck chains, one silver waist chain belonging to a minor child. The articles were recovered from the locker and handed over to the police. Pappu Khan identified them as forming part of his share of the booty. The articles were seized under a seizure list and marked as material exhibits. Recovery at the Instance of Manoj Kumar Singh. During investigation another accused, Manoj Kumar Singh, was arrested and interrogated. Pursuant to his disclosure statement, the police proceeded with him to Bajal Para Lane where he produced one gold finger ring bearing Hindi inscription, two gold finger rings belonging to children, two silver neck chains, one Titan wrist watch having a golden case.

These articles were identified as part of the looted property and were seized in the presence of witnesses.

30. P.W.22, a doctor attached to S.S.K.M. Hospital, examined Nandalal Dhanuk and found superficial lacerated injuries upon the left arm, upon the chest and right thigh. On examination Meena Debi, he found sharp-cut injuries upon the right leg and sharp-cut injuries upon the right shoulder. On examination Aman Dhanuk, PW-22 found history of kerosene oil being poured upon the body. On examination Raju Kumar Dhanuk, he found superficial sharp cut injury upon the leg with blood clot formation and on examination Saraswati Dhanuk, PW-22 found multiple bruises upon the left thigh, bruises upon the back and bruises upon the chest.
31. The medical evidence establishes that several members of the victim families sustained injuries contemporaneously with the occurrence and lends substantial corroboration to the oral testimony of the eyewitnesses.
32. P.W.19 Kamal Kumar Dutta, proprietor of the jewellery shop, confirmed that accused Pappu Khan had pledged ornaments with him and received money against the mortgage. He produced the mortgage register and identified the accused. His testimony furnished independent corroboration to the recovery made pursuant to the disclosure statement of Pappu Khan.
33. P.Ws.14, 15, 17 and 21 proved various seizure lists and material exhibits recovered during investigation. Their evidence supports the recoveries effected at the instance of the accused persons.
34. The prosecution evidence reveals a continuous and coherent chain of circumstances beginning with the armed invasion of the Calcutta Port Trust

Servants' Quarters, followed by the assault upon the inmates, the looting of ornaments and household articles, the judicial identification of the offenders, recovery of stolen property pursuant to disclosure statements, independent corroboration by seizure witnesses, confirmation by the jewellery shop owner regarding pledged ornaments, and medical evidence establishing injuries sustained by the victims during the occurrence.

35. The testimony of the victim witnesses bears substantial consistency regarding the time of occurrence, number of offenders, weapons carried, manner of entry, assault upon the occupants, threats administered to family members, identification of the accused persons and recovery of the stolen articles. Read conjointly, the evidence projects a compelling narrative of a concerted armed dacoity committed by the accused persons within the Calcutta Port Trust Servants' Quarters during the night of 25th March, 2002.

36. The Learned Advocate appearing on behalf of the appellants argued on four principal foundations: first, that the conviction rests upon conjecture rather than legally admissible evidence; secondly, that identification of the appellants suffers from inherent infirmities owing to the nocturnal nature of the occurrence; thirdly, that the recoveries allegedly effected at the instance of the accused do not satisfy the requirements of law; and fourthly, that the evidence adduced by the prosecution fails to establish participation of the appellants in the commission of dacoity punishable under Sections 395 and 397 of the Indian Penal Code.

37. The Learned Advocate representing the State submitted as follows:-

- i. *“It is trite law that the conviction given under Sections 395/397 of the Indian Penal Code must satisfy the essentials of the conjoint attempt of five persons who shared the deliberate common interest in the commission of dacoity using deadly weapons. Thereby to prove that the presence and the tangible act of the appellants has been correctly recognized and the conviction has been correctly given by the Learned Trial Judge, the evidence of the prosecution witnesses is reiterated herein: -*

a) Seizure of the robbed items:

A brass plate was seized from appellant Khokan @ Kokan Shah @ Saha (MAT EXBT XII). 2 gold bangles were seized from appellant Khalil Molla. 5 chains, one waist chain, 3 golden baju were seized from Md. Pappu Khan. PW-24 corroborated the same in his deposition.

b) Test Identification Parade:

PW-4 (son of DC, Injured witness) identified 3 appellants including Khalil Molla, Pappu Khan, Nazimuddin Halder during TIP held in Alipore Jail. PW-12, the DC identified Nazimuddin Halder, Md. Pappu Khan. PW-6 identified Khalil Molla, Md. Pappu Khan, Nazimuddin Halder before the TIP and attributed specific roles to them respectively. PW-11 identified appellants Khalil Molla and Md. Pappu Khan before the TIP. PW-7, PW-13 identified appellants Nazimuddin Mir and Md. Pappu Khan before the TIP. PW-8 identified appellant Khalil Molla.

c) Corroborative accounts of the Injured witnesses:

PW-4 mentioned that the appellants were first encountered by his father. The appellants allegedly threatened the DC on gun point and About 6 miscreants entered the room armed with deadly weapons like nepala, iron rod, pistol, bomb. Appellant Pappu Khan allegedly assaulted him with a nepala. PW-12 agreed the said incident as the DC and the father of PW-4.

PW-6 mentioned that the miscreants allegedly assaulted her husband and subsequently the appellants placed a bomb on her head and pistol on her mouth. She was assaulted by the appellants on her leg, head and face. She was allegedly hit on her left hand with an iron rod. She even mentioned that as she was unable to fulfill their demand of a gold necklace the appellants allegedly poured kerosene on the body of her minor child threatening they would put fire on the same. PW-11 corroborated the said incident on the same line. PW-7 mentioned that the appellants showed revolver and threatened them to open the door wherein they took away all the items and utensils by force.

PW-8 mentioned that the appellants allegedly used revolver to threaten the witness. They stated that they were from police and on opening the door they tied his hands and legs and took away all the household articles and money.

PW-10 being a chance witness corroborated the said incident.

d) Veracity of Injuries:

PW-22 mentioned that he examined the injured witnesses PW-12, 13 and found lacerated injury on left arm, chest, right thigh; again injury

was found on right leg and right shoulder. There were sharp cutting injury on his leg along with blood clot on Aman Dhanuk. (Injury reports- Exbt 13, 13/1, 4).

Multiple bruises were found on Saraswati Debi. These indicates that the injuries were seriously grievous and could have been life endangering if not tended within time.

e) Identification of Robbed items :

PW-6 mentioned that she identified the specific items robbed from her premises on the concerned DO as recovered by the prosecuting agency.

PW-7 identified the said articles robbed from her premises being Mat Ext. X,XI, XII,XIII.

Though no recovery was made about the deadly weapons. Usage of the same was clarified by all the witnesses.

- ii. The present case was initiated with the deliberate conglomeration of more than five miscreants including the present appellants armed with deadly weapons including firearms, revolver which was used by them to threaten and rob the appellants. The same has been corroborated by credible witness and the recovery is apt and accordingly to the law. Though the deadly weapons were not recovered the presence was attributed by each and every witnesses. Thereby the Trial Court has rightly relied on the said facts as no legal deformities had cropped up. At this stage acquittal would be bad in law. Thus, the conviction given under Section 395/397 of the Indian Penal Code should be inherently*

upheld to meet the ends of law and to avoid gross miscarriage of justice.”

38. At the threshold, it is necessary to note that the prosecution case does not rest upon a solitary witness or a single incriminating circumstance. The prosecution has presented a mosaic of evidence comprising injured eyewitnesses, victims residing in different quarters, judicial identification proceedings, recovery of stolen articles pursuant to disclosure statements, medical evidence and official witnesses connected with the investigation. Each constituent element lends reinforcement to the others and collectively forms a coherent evidentiary structure.
39. The occurrence itself admits of no serious dispute. P.W.4 Raju Kumar Dhanuk, P.W.6, P.W.7 Champa Devi, P.W.8 Bishnu Hari, P.W.9, P.W.12 Nandalal Dhanuk and P.W.13 Meena Debi uniformly speak of a violent invasion of the Calcutta Port Trust Servants' Quarters during the early hours of 25th March, 2002. Their accounts reveal that a gang consisting of approximately six armed persons entered the residential compound, moved from quarter to quarter, assaulted the occupants, threatened them with firearms and bombs and removed ornaments, cash and household articles.
40. The evidence of P.W.4 assumes considerable significance. He described with precision the manner in which the iron net above the entrance door was cut, the entry of the offenders, the threats administered at gunpoint and the assault upon members of his family. His testimony reveals that accused

Pappu Khan assaulted him with a nepala. The witness also identified articles subsequently recovered during investigation.

41. P.W.12 Nandalal Dhanuk, father of P.W.4 and himself an injured victim, narrated the same sequence of events. He stated that the offenders entered after cutting the iron net and terrorised the inmates with revolvers and bombs. His evidence furnishes direct corroboration to the testimony of P.W.4 on all material particulars.
42. The evidence of P.W.6 provides another striking dimension of the occurrence. She narrated how her husband Sunil Dhanuk was assaulted and restrained, how she was beaten upon her leg, head and face, how a bomb was placed upon her head and a pistol upon her mouth, and how kerosene oil was poured upon the body of her minor child when she failed to satisfy the demands of the offenders. Such details bear the hallmark of lived experience and possess an intrinsic ring of truth. She attributed distinct roles to Khalil Molla, Nazimuddin Halder and Pappu Khan. The specificity of her account strengthens rather than weakens the evidentiary value of her testimony.
43. P.W.7 Champa Devi corroborated the use of firearms and the forcible removal of property. P.W.8 Bishnu Hari stated that the offenders gained entry by representing themselves as police personnel and thereafter tied the inmates before removing cash and household articles. P.W.9 and P.W.13 furnished further corroboration regarding the simultaneous attacks upon various quarters.
44. What emerges from the collective testimony of these witnesses is a striking consistency regarding the time of occurrence, number of offenders, nature of

weapons carried, method of operation and removal of property. Minor variations, far from diminishing the value of their testimony, indicate that the witnesses were recounting the incident from their individual perspectives rather than reproducing a rehearsed narrative.

45. The contention that the occurrence took place in darkness and that identification was therefore impossible also fails to persuade. P.W.4 and P.W.12 specifically stated that electric lights were burning within the rooms. The trial court recorded a categorical finding that there was sufficient illumination enabling the victims to observe the offenders. Nothing of substance emerged in cross-examination to erode that assertion.
46. More importantly, the identification of the appellants does not rest merely upon dock identification. The evidence of P.W.18 and P.W.20, the Learned Magistrates who conducted the Test Identification Parades, demonstrates that several witnesses identified the accused persons at the earliest available opportunity. P.W.4 identified Khalil Molla, Pappu Khan and Nazimuddin Halder in the Test Identification Parade held at Alipore Jail. P.W.12 identified Nazimuddin Halder and Md. Pappu Khan. P.W.6 identified Khalil Molla, Md. Pappu Khan and Nazimuddin Halder and attributed specific roles to them. P.W.11 identified Khalil Molla and Pappu Khan. P.W.7 and P.W.13 identified Nazimuddin Mir and Pappu Khan. P.W.8 identified Khalil Molla.
47. Thus, identification is neither isolated nor singular. It arises from multiple witnesses, residing in different quarters, identifying different accused persons independently of each other. Such evidence possesses considerable probative force.

48. The argument that appellant No.2 was not identified stands contradicted by the record. The Test Identification Parade sheets and the testimony of the identifying witnesses reveal otherwise. The evidence discloses repeated identification of the accused persons both during the parade and subsequently before the Court. Equally devoid of merit is the submission relating to recovery. P.W.24, the Investigating Officer, furnished a detailed account of the disclosures made by the accused and the recoveries effected pursuant thereto. Khalil Molla led the police to a room near the railway track at Santoshpur and produced gold-coloured bangles. Nazimuddin Mir produced brass utensils including a brass tub, brass bowl, metal plate and ghati. Saidul Kazi produced a ladies' wrist watch concealed inside a tin box. Khokan Shah produced a brass plate and a black-coloured ladies' shawl from a nylon bag and described them as part of his share of the booty.
49. Pappu Khan disclosed that part of the stolen ornaments had been pledged at a jewellery shop. Pursuant thereto, the police proceeded to the establishment of Kamal Kumar Dutta where silver chains, waist chains and ornaments were recovered.
50. The evidence of P.W.19 Kamal Kumar Dutta assumes special importance in this regard. He categorically stated that Pappu Khan had pledged ornaments with him and had received money against such mortgage. He produced the mortgage register and identified the accused. No circumstance has been brought on record suggesting any motive on his part to falsely implicate the accused.

51. The recoveries are therefore not mere police assertions. They receive independent corroboration from civilian witnesses and documentary records. The submission that independent seizure witnesses were absent also does not survive scrutiny. P.Ws.14, 15, 17 and 21 proved the seizure lists and supported the recoveries. Their testimony lends assurance to the prosecution version. The medical evidence constitutes another important link in the chain. P.W.22, the doctor attached to S.S.K.M. Hospital, examined the injured victims shortly after the occurrence. He found lacerated injuries upon Nandalal Dhanuk. He detected sharp-cut injuries upon Meena Debi. He noted superficial sharp-cut injuries upon Raju Kumar Dhanuk. He found multiple bruises upon Saraswati Dhanuk. The history of kerosene oil being poured upon the body of Aman Dhanuk was also recorded. These injuries correspond closely with the narrative supplied by the occurrence witnesses. Their presence excludes any suggestion that the incident was a fabricated event designed to implicate the appellants.
52. The argument founded upon the observance of Moharram also lacks legal significance. Criminal liability cannot be adjudged upon assumptions regarding collective human behaviour during a religious observance. Judicial determination must proceed upon evidence and not upon speculation concerning what an individual might or might not do on a particular festival day.
53. The ingredients of Section 395 of the Indian Penal Code stand fully established. The evidence reveals participation of more than five offenders acting conjointly in the commission of robbery. Their concerted conduct,

simultaneous movement through different quarters and common objective leave little room for doubt regarding the existence of a shared design.

54. The requirements of Section 397 Indian Penal Code are equally satisfied. The evidence consistently demonstrates use of revolvers, pistols, bombs, iron rods and nepalas during the commission of the offence. Several victims sustained injuries and threats of death accompanied the robbery. The terror inflicted upon the occupants was neither incidental nor peripheral; it formed an integral component of the criminal enterprise.
55. The prosecution evidence thus travels far beyond the threshold of suspicion. It establishes, through direct testimony, medical corroboration, judicial identification and recovery of stolen property, the participation of the appellants in the commission of the offence.
56. The Learned Trial Judge undertook a careful evaluation of the evidence and arrived at conclusions firmly anchored in the record. No perversity, misdirection in law, omission of material evidence or erroneous appreciation of fact becomes discernible.
57. Viewed in its entirety, the prosecution case presents a consistent, credible and compelling account of a violent armed dacoity committed by the appellants and their associates during the night of 25th March, 2002. The evidence of the injured witnesses inspires confidence; the identification evidence furnishes substantial assurance; the recoveries provide tangible corroboration; and the medical evidence reinforces the prosecution narrative.
58. Accordingly, this Court finds no reason to interfere with the judgment of conviction and order of sentence recorded by the Learned Trial Court. The

appeal, being devoid of merit, stands dismissed. The conviction and sentence imposed upon the appellants under Sections 395 and 397 of the Indian Penal Code are affirmed. The bail bonds, if any, stand cancelled and the appellants shall undergo the remainder of the sentence in accordance with law.

59. There is no order as to costs.

60. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.

61. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)