

Form No.J(1)

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

Present:

The Hon'ble Justice Tirthankar Ghosh

C.R.A. 359 of 2018

***Jakir Hussain @ Jakir Hussen
versus
The State of West Bengal***

For the Appellant : Mr. Ayan Basu,
Mr. Debapratim Guha,
Mr. Rajib Lochan Chakraborty,
Ms. Anchita Sarkar.

For the State : Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu.

Heard On : 07.07.2022 and 20.07.2022.

Judgement On : 20-07-2022.

Tirthankar Ghosh, J. :

The present appeal was preferred challenging the judgement and order of conviction and sentence dated 10.07.2012 passed by learned Additional Sessions Judge, Fast Track, 2nd Court, Islampur, Uttar Dinajpur in Sessions Case No. 223/2009 (Sessions Trial No. 07/2010)

arising out of G.R. Case No. 652 of 2009 relating to Karandighi Police Station Case No. 155/2009 dated 21.05.2009. Charge-sheet was submitted under Sections 14A(b) and 14C of the Foreigners Act. The present appellant was convicted under Section 14C of the Foreigners Act.

I have perused the evidence of six witnesses relied upon by the prosecution as also the evidence of two defence witnesses. On appreciation of the evidence which has surfaced on record, I find that a person was recovered in a chained condition from the house of the appellant. However, the fact which has emerged in the trial is that there was a business dispute between the person so recovered and other persons and as such, the person who was recovered (the other accused) was detained in the house of the appellant for a different purpose, but not for the purpose of harbouring a foreigner. In view of the evidence which has surfaced, I do not find that the appellant had any intention to give protection to a foreigner. The appellant is a permanent resident of the locality as revealed from the evidence of PW-3 and PW-6. The records also do not reflect that there were any independent witnesses or any document which has been brought on record regarding the residence of the appellant. That being the case, I am of the opinion that finding of guilt so far as the present appellant is concerned under Section 14C of

the Foreigners Act for which he was charged in the instant case is not made out. As such, the appellant is acquitted of the charges.

With the aforesaid observations, the appeal being CRA 359 of 2018 is allowed.

This Court by order dated 07.07.2022 directed the appellant to deposit a cost of Rs.15,000/- as the warrant of arrest was pending and he did not surrender before the court and participated in the appeal.

The said cost has been deposited before the learned trial court. To that effect, an affidavit has been filed on behalf of the appellant. Let the same be kept on record.

The cost so deposited be forwarded to the Legal Aid Services Authority of the concerned district for utilization.

Department is directed to send back the lower court records immediately and communicate this order to the learned trial court.

All parties shall act on the server copy of this judgement duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this judgement, if applied for, be given to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)