

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

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

CRA 656 of 2019

With

CRAN 2 of 2020 (Old No. CRAN 512 of 2020)

Debasish Chakrabarty alias Debasish Chakraborty

-vs.-

The State of West Bengal

For the Appellant : Mr. Angshuman Chakraborty.

For the State : Md. Anwar Hossain,
Ms. Sreyashee Biswas.

Heard on : 04.07.2022, 15.07.2022, 22.07.2022,
29.07.2022, 17.08.2022 & 29.08.2022.

Judgment on : 18.11.2022

Tirthankar Ghosh, J:-

The present appeal has been preferred against the judgment and order of conviction and sentence dated 06.03.2017 and 07.03.2017 passed by the Learned Additional Sessions Judge, 2nd Court, Krishnagar, Nadia, in Sessions Trial No. XI(XII) of 2016 arising out of Sessions Case No. 1(5) of 2016 (Spl) thereby convicting the appellant for commission of offence under Section 3/5/7

of the Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as 'ITP Act') and sentencing him as follows:

- 1) To suffer Rigorous Imprisonment for two years and fine of Rs.1,000/- in default to suffer Rigorous Imprisonment for one month more for offence under Section 3 of the ITP Act.
- 2) To suffer Rigorous Imprisonment for seven years and fine of Rs.5,000/- in default to suffer Rigorous Imprisonment for three months more for offence under Section 5 of the ITP Act.
- 3) To suffer Rigorous Imprisonment for two years and fine of Rs.1,000/- in default to suffer Rigorous Imprisonment for one month more for offence under Section 7 of the ITP Act.

Nabadwip Police Station case no. 80/2016 dated 02.03.2016 was registered for investigation under Section 3/4/5/7/8 of the ITP against Pradip Mondal, Mahadeb Ghosh and the appellant Debasish Chakraborty on the basis of a complaint addressed to the Inspector-in-charge, Nabadwip Police Station, Nadia by Anjan Ghosh, Circle Inspector, Nakashipara Police Station, Nadia. The allegations were to the effect that on 02.03.2016 at 15.05 hrs the complainant received an information from the Deputy Superintendent of Police (D&T Nadia) that a sex racket was operating in Hotel Raj of Hutor Ghat at Shri Mayapur under P.S. Nabadwip, after booking rooms in the hotel. The superior Officer directed the complainant to hold raid with officers and men of Nabadwip Police Station. Complainant left for Shri Mayapur to work out the information

and at 16.15 hrs he arrived at Mayapur police camp and a raiding team was formed with police personnel attached to Mayapur Police Camp. Two local witnesses were called for accompanying them during search and seizure who voluntarily consented and accompanied the raiding team. The complainant along with other police personnel along with two public witnesses entered inside the hotel premises and as soon as they entered Hotel Raj, the Manager of the hotel namely, Debasish Chakraborty escaped through the back door, the hotel register was checked and it was found that two rooms being room no.2 and 3 were booked in the name of Pradip Mondal, Mahadeb Ghosh, victim 'Y' and victim 'X'. It was mentioned in the register that they were from Kalna and were relations and the age was described as 36, 20, 15 and 17 respectively. On the Room No.2 being knocked the boarders responded by representing that they were Pradip Mondal and victim 'X' and in the said room no.2, on search voter identity card and pan card of Pradip Mondal was found along with packet of condoms. On prolonged interrogation victim 'X' confessed her identity and her age and also disclosed the facts that she is studying at Class-XI in Bethberia High School, Chapra, both of them had love affair and so Pradip Mondal brought her to the Hotel. It was also represented that as soon as they reached Hutor Ghat and were proceeding towards Mayapur, on the way Manager of Raj Hotel requested them to come to their Hotel and committed that they would be provided with rooms for staying. The raiding team thereafter knocked room no.3 which was opened and two persons found there were Mahadeb Ghosh and victim 'Y'. Room was searched and the voter ID Card of

Mahadeb Ghosh along with one packet of condom was recovered. On interrogation victim 'Y' confessed her identity as a student of Class-X in Bethberia High School, Chapra. It was represented that they had love affair and Mahadeb Ghosh brought her to the Hotel. It was also disclosed that as soon as they reached Hutor Ghat and were proceeding towards Mayapur on the way Manager of Raj Hotel requested them to come to their Hotel where they would be provided with rooms. After inquiring in the vicinity from the local people, complainant gathered information that the Hotel was managed by Debasish Chakraborty son of Jayanta Chakraborty of Ranirghat, Nabadwip, Nadia and the owner of the Hotel gave full responsibility of the hotel to the Manager because the owner was involved with the business of another hotel and did not have any time for running Hotel Raj. The complainant inquired from the persons who were found in the room and the boys therein confessed that they had a love affair with those girls and came to Hotel for having sexual intercourse. Two persons were arrested and as the recovered girls in the room were found to be minor they were kept under safe custody of two lady constable. A seizure list was prepared and number of articles were seized which included the Hotel Register, voter ID card of Pradip Mondal and Mahadeb Ghosh, Pan Card of Pradip Mondal along with condoms which were recovered from the rooms. The parents of the girls/victims were also informed over phone. Information was also sent to House of the accused persons. The complainant thereafter requested the Inspector of Nakashipara Police Station

to start a case under Section 3/4/5/7/8 of the ITP Act against Pradip Mondal, Mahadeb Mondal and Debasish Chakraborty (appellant herein).

On completion of investigation the Investigating Officer submitted charge-sheet against the three accused persons named in the FIR under Section 3/4/5/7/8 of the ITP Act and Section 6 of the Protection of Children from Sexual Offences Act. Copies of the documents under Section 207 of the Code of Criminal Procedure were served upon the accused persons and consequently date was fixed for framing of charge.

The learned Special Court on 22.12.2016 after considering the materials available on record was pleased to frame charge under Section 3/5/7/8 of the ITP Act against the Appellant and the owner of the Hotel and Section 6 of the POCSO Act against the accused persons, Pradip Mondal and Mahadeb Ghosh. The contents of the charge were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

The prosecution in order to prove its case relied upon 18 witnesses which included PW1, Madhusudan Sikdar, seizure list witness; PW2, Alope Mondal, seizure list witness; PW3, lady constable Suparna Paul; PW4, victim girl 'X'; PW5, victim girl 'Y'; PW6, Rekha Mondal, grand-mother of PW5; PW7, Kanchan Mondal, mother of PW4; PW8, Dr. Debraj Biswas, doctor who examined the victim girls PW4 and PW5; PW9, Dr. Piu Saha, doctor who conducted radiological examination of PW4 and PW5; PW10, Dr. Biswajit Modak, doctor who conducted teeth examination of PW4 and PW5; PW11, Anjan Ghosh,

complainant and Circle Inspector of Nakashipara Police Station at the relevant point of time; PW12, Subhasish Biswas, Sub-Inspector of police and member of the raiding team; PW13, Gopal Sarkar, Sub-Inspector of police, member of the raiding team; PW14, Debraj Pal, Constable, member of the raiding team; PW15, Kalyani Biswas Barman, Lady Constable and member of the raiding team; PW16, Dr. Jagannath Saha, doctor who prepared the Medical Report of the accused Pradip Mondal and Mahadeb Ghosh; PW17, Gobinda Ch. Chakraborty, who received the written complaint from PW11 and started Nabadwip Police station case no. 18/16 dated 02.03.2016; PW18 Tapas Kr. Pal, Investigating Officer of the case.

PW1 is Madhusudan Sikdar, who carries on business of street food near Hulor Ghat (a place near the Raj Hotel where raid was conducted). The witness identified his signature in the seizure list dated 02.03.2016 which were marked as Ext.1 and Ext.2 respectively.

PW2, Alope Mondal is a boatman of Nabadwip Ferry Ghat. He identified his signatures in the seizure list dated 02.03.2016 which were marked as Ext.1/1 and Ext.2/1 respectively.

PW3 is Suporna Paul, a Lady Constable attached to Nabadwip Police Station, who on 03.03.2016 brought victim 'X' and 'Y' to Nabadwip Hospital for their medical examination. She deposed that the medical examination was carried out in her presence and the X-Ray plate as well as vaginal swab was handed over to her by the doctor and the police officers seized the same in her

presence which she signed. Her signature on the seizure list was marked as Ext.3.

PW4, victim 'X' is a girl aged about 17 years and a student of Class XII who was found during the raid in a room at Raj Hotel along with Pradip Mondal one the accused. She deposed before the Court that about a year back at a tea stall situated at Mayapur, she along with Pradip Mondal went for a tour and was taking food while a hot altercation took place and police thereafter arrested them. She further deposed that the fact of incident was narrated before the Learned Magistrate and as per her version learned Magistrate wrote down, where she signed. The entire statement under Section 164 of Cr.P.C. was marked as Ext.4. The witness was cross-examined wherein she stated as per instruction of police she had narrated the incident to the learned Magistrate.

PW5, victim 'Y' is aged about 15 years and a student of Class IX who was found in a room along with Mahadeb Ghosh at Raj Hotel while the police authorities carried a raid. She deposed that the incident took place about a year back at a tea stall situated at Mayapur when she along with victim 'X' had been for a tour and were having their food, when a hot altercation took place and police arrested them. She further stated that she narrated the incident to the learned Magistrate who wrote down the same and she signed it. The entire statement was marked as Ext.5. In her cross-examination she stated that as per instruction of police she narrated the incident to the learned Magistrate.

PW6, Rekha Mondal is the grand-mother of the victim 'Y' (PW5) who stated that the victim was about 16 years old and she knew nothing about the case and in her presence learned Magistrate recorded the statement of the victim. She further stated that police seized birth certificate under a seizure list where she inserted her LTI.

PW7, Kanchan Mondal is mother of victim 'X' (PW4). She deposed that her daughter was about 17 years and the incident took place about a year back at a tea stall situated at Nabadwip wherefrom police arrested them. In her presence Learned Magistrate recorded the statement of victim 'X', police seized her birth certificate under seizure list where she signed. Her signature on the seizure list was marked as Ext.6.

Ext.8 is Dr. Debraj Biswas who was posted at Nabadwip State General Hospital as Medical Officer on 03.03.2016. He deposed that he examined victim 'Y' aged about 15 years who was brought and identified by Lady Constable Suparna Pal. He stated that so far as the history which was disclosed before him by victim 'Y' is that she had a friendship with victim 'X' who had a Facebook friend namely, Pradip Mondal of Kalna. Pradip brought Mahadeb Ghosh of Kalna and victim 'Y' met Mahadeb Ghosh then both of them went to Raj Hotel where they booked two rooms and had sexual intercourse at their own will. The doctor deposed that on clinical examination he found there was injury on her private part, her injury was also present in the hymen on the lower part and one small abrasion was found on her forechete. Doctor opined

that she had sexual intercourse which is appearing in the Medical Report of victim 'Y' prepared and signed by him. He identified the medical report which was marked as Ext.7. Witness also deposed that on the same date he also examined another girl i.e. victim 'X' aged about 17 years who was also brought and identified by Lady Constable Suporna Pal. The history disclosed by victim 'X' was that she had friendship with victim 'Y' and Pradip Mondal. Pradip brought Mahadeb Ghosh of Kalna and victim 'Y' met with Mahadeb Ghosh and all four of them went to Raj Hotel where two rooms were booked for having sexual intercourse at their will. Doctor opined that she had no mark of injury on her person and in his opinion she had sexual intercourse which was appearing in the medical report prepared and signed by him, he identified the medical report which was marked as Ext.8.

PW9 is Dr. Piu Saha who is a Radiologist attached to Nabadwip State General Hospital. She stated that on 03.03.2016 she held Radiological Examination of victim 'X' and in her opinion the bone age of victim 'X' was between 15 years to 17 years. She identified the Radiological Report of victim 'X' which was prepared and signed by her and as such marked as Ext.9. Doctor further deposed that she also held Radiological Examination of another patient victim 'Y' and in her opinion the bone age of victim 'Y' was between 13 years to 15 years. The Radiological report of victim 'Y' was prepared and signed by her which was identified and as such marked as Ext.10.

PW10 is Dr. Biswajit Modak, a Dental Surgeon attached to Nabadwip State General Hospital who deposed that on 03.03.2016 he conducted teeth examination of victim 'X' and victim 'Y'.

PW11 is Anjan Ghosh who is the CI of Nakashipara police station. He deposed that on 02.03.2016 he lodged a complaint to the Inspector-in-charge of Nabadwip Police Station to start FIR under Section 3/4/5/7 of ITP Act, 1956. He stated that as per direction of DSP (D&T), at about 03.05 PM he went to Mayapur and at 04.05 pm he reached Mayapur Outpost and directed Sub-Inspector Subasish Biswas and other police personnel along with lady police for holding raid at Raj Hotel of Hulor Ghat where he had information of offence being committed under the Immoral Traffic (Prevention) Act, 1956 in room no.2 and 3 of the said Hotel. A raid was held and on seeing the police authorities the Manager of Raj Hotel fled away. Police authorities checked the hotel register and held raid at room no.2 and 3 of Raj Hotel. From Room no.2 Pradip Mondal and victim 'X' were recovered and from Room no.3 Mahadeb Ghosh and victim 'Y' were recovered. From both the rooms condoms were recovered also and victim 'X' disclosed her age to be 15 years while victim 'Y' disclosed her age to be 17 years. It was stated that they had been to the room at about 1.00 pm and were victim of the situation created by Pradip and Mahadeb. Both of these persons were arrested. The PAN Card, Hotel register, condom, voter identity card were seized under seizure list which were marked as Ext.1/2 and Ext.2/2. Thereafter, the witness went to Nabadwip Police Station and lodged the complaint. He identified the complaint which was typed in computer and the

entire FIR was marked as Ext.11. He also stated that Debasish Chakraborty was the manager of Raj Hotel. The witness was recalled subsequently and the seized articles were shown to the witness which was identified by him and marked as MAT Ext.I (collectively).

PW12 is Sub-Inspector, Subasish Biswas, who was posted on 02.03.2016 as Officer-in-charge at Mayapur Outpost. He deposed that on the said date a raid was held at the hotel of Ram Joardar situated at Hulor Ghat where he being accompanied by CI, Nakashippara Anjan Ghosh along with force had been to that place. CI asked the Hotel Manager for hotel register and after thorough check up CI Nakashipara directed the hotel Manager for calling the persons who booked the rooms as per register. Both the rooms were occupied by one couple, CI asked their names, address and age which they disclosed. Thereafter CI Nakashipara asked the Hotel Manager whether the age proof certificate was obtained prior to allotment of the room when the manager replied that age proof certificate was not obtained prior to the rooms being allotted. The Circle Inspector then asked the Manager whether identification proof was obtained prior to allotment of the rooms, in reply the manager stated that no such documents were obtained. The manager was thereafter requested to call the owner of the Hotel to which he replied that the owner was not available and was at Krishnagar. Search and seizure took place in his presence and from the rooms condom, school dress etc. were recovered from possession of the respective couple. The Circle Inspector thereafter arrested the victim as well as the accused persons and took them to Nabadwip Police Station. He

identified the accused persons on dock and also stated that the Manager was absent.

PW13 is Gopal Sarkar, ASI of Police attached to Mayapur Outpost, who deposed that on 02.03.2016 he accompanied Sub-Inspector, Subasish Biswas (PW12) for holding raid at Raj Hotel. He deposed that at the Hotel rooms two couples were recovered who were arrested and taken to Nabadwip Police Station, however, he could not identify them in Court.

PW14 is Debraj Pal, a constable attached to Mayapur Outpost who deposed that on 02.03.2016 he was a member of the raiding team at Raj Hotel which was under the leadership of CI Nakashipara. He stated that from the two rooms of hotel two couples were arrested, however, he failed to identify the persons in Court.

PW15 is Kalyani Biswas Barman, a Lady Constable attached to Mayapur Outpost, she deposed that on 02.03.2016 she accompanied Sub-Inspector Subasish Biswas, ASI Gopal Sarkar, Constable Debraj Pal at Raj Hotel where a raid was conducted, two couples were arrested from the said Hotel. She failed to identify the said persons. However, she identified her signature in the seizure list which was marked as Ext.1/3 and Ext. 2/3 respectively.

PW16 is Dr. Jagannath Saha, Medical Officer attached to Nabadwip State General Hospital. He deposed that on 29.04.2016 Pradip Mondal and Mahadeb Ghosh were produced before him in connection with Nabadwip PS Case no. 80/16 dated 02.03.2016 under Section 3/4/5/7/8 of ITP Act. They were

identified by Inspector Tapas Kr. Pal, IC Nabadwip PS. Both the accused persons refused to undergo medical examination. The said report was prepared and signed by him which was marked as Ext.12 and Ext.13.

PW17 is Gobinda Ch. Chakraborty, ASI of Police attached to Nabadwip Police Station who deposed that on 02.03.2016 he received a written complaint from CI Nakashipara and on that basis he started Nabadwip PS Case no. 80/16 dated 02.03.2016 under Section 3/4/5/7/8 of ITP Act. He made a receiving endorsement on the written complaint which was marked as Ext.11/1 and the Formal FIR which was filled up by him and was marked as Ext.14.

PW18 is Tapas Kr. Pal, who was Inspector-in-charge, of Nabadwip Police Station on 02.03.2016 and the Investigating Officer of the Nabadwip PS Case no. 80/16 dated 02.03.2016 under Section 3/4/5/7/8 of ITP Act. He deposed that immediately after taking charge of the investigation he visited the place of occurrence, prepared the rough sketch map of the place of occurrence along with index, the same was marked as Ext.15. The witness also deposed that he examined the complainant and the other witnesses and recorded their statements under Section 161 of the Code of Criminal Procedure. He deposed that he sent the victim girl for medical examination and collected their medical report after their medical examination was over and forwarded them to Court. He also sent the victim girls for recording their statements under Section 164 of Cr.P.C. and seized birth certificate and Madhyamik Admit Card under

seizure list on 28.04.2016. Both the documents were marked as Ext.16 and Ext.17. The arrested accused persons were also sent for medical examination who refused to undergo medical test. Thereafter, he submitted charge-sheet against the accused persons before the Court.

Mr. Angshuman Chakraborty, learned Advocate appearing on behalf of the appellant submitted that the learned trial Court erroneously arrived at the finding of guilt so far as the present appellant is concerned, in view of the fact that there are no materials appearing against him in the evidence which has surfaced in course of the trial. Learned advocate submitted that PW12, SI Subhasish Biswas failed to identify the appellant in Court and deposed that he was absent, although from the records it revealed that all the four accused on Court bail were present. He also submitted that PW12 did not support the prosecution as he stated that he had no personal regarding the case as such it can be concluded, that the signatures in documents were subsequently obtained. Drawing attention of the Court to the evidence of PW4 and PW5 learned Advocate submitted that the victim girls did not support the prosecution case and they categorically deposed that because of hot altercation they were arrested and the statement before the learned Magistrate which was recorded under Section 164 of the Code of Criminal Procedure was tutored by the police authorities. Learned trial Court erroneously relied on the evidence of PW8, Dr. Debraj Biswas which is a medical report in respect of the victim girls and it cannot be a foundation for coming to a conclusion that at the Hotel rooms offences were committed under the provisions of ITP Act. It is his

submission that the learned trial Court failed to appreciate the very purport of Section 2(f) and Section 2(a) of the ITP Act, 1956. Lastly the learned trial Court erroneously arrived at the finding of guilt so far as the present appellant is concerned. The learned Advocate concludes that as the prosecution has failed to prove the case beyond any reasonable doubt the order of conviction and sentence against the present appellant should be set aside.

Ms. Sreyashee Biswas, learned Advocate appearing for the State supported the judgments of the trial Court and submitted that although PW4 and PW5 being the victim girls resiled from their earlier statement before the Court, assigning reasons that because of hot altercation they were arrested by the police authorities but they were recovered from Raj Hotel and the register of the said Hotel reflected that they were present. The medical evidence of the girls reflected that they had sexual intercourse which was at their own will and their narration of evidence before the doctor corroborated the prosecution case in material particulars. The medical report also corroborates the prosecution case. The evidence of the other doctors also reflects that both the girls were minor being student of a school and as such it was the duty of the Manager of the Hotel to check the identification proof in respect of the girls who were found to be occupant of the rooms. The register of the hotel do not reflect that the identity proof of the visitors were available and minors were allowed to use a room for immoral purpose, thus the appellant who was the Manager of the said Raj Hotel is fully connected with the offence and cannot by any stretch of imagination be exonerated from the charges which has been framed against

him. Lastly it was concluded that the judgment and order of sentence of the trial Court is based on material evidence which are corroborated and as such do not call for any interference by this Court.

I have considered the submissions of the learned Advocates appearing for the Appellant as well as that of the State and I find that the appellant has stressed on the evidence of PW12, Subhasish Biswas, Sub-inspector of police attached as Officer-in-charge of Mayapur Outpost, while challenging the truthfulness of the version of the said witness who deposed that the appellant was absent in Court. To substantiate such contention learned Advocate for the appellant referred to the order dated 19.01.2017 of the learned Trial Court wherein it was written that four accused persons were present. I have assessed the cross-examination on this point and I find that on the issue of the said version of the witness "*Manager is absent today*", neither there has been any cross-examination or suggestion. Mere clerical mistake cannot be a foundation of non-identification, as such this Court is of the opinion that the Manager on that day was not present in Court. Now so far as the contention of the learned Advocate of the appellant relating to the evidence of PW4 and PW5 are concerned the said two witness are of teen age being 15 and 17 years respectively which is also reflected from the evidence of the Radiologist PW9, Dr. Piu Saha. Their evidence before PW8, Dr. Debraj Biswas reflects that they had sexual intercourse. The statements of victim 'X' under Section 164 of Cr.P.C. before the learned Magistrate reflects that she had been to Hotel along with her friend and two persons wherefrom police arrested them and forwarded

them to the police station. PW5, victim 'Y' in her statement under Section 164 of Cr.P.C. before the learned Magistrate stated that she along with her friend and two persons had been to Mayapur, thereafter, they had been to a Hotel, where they occupied room and police arrested and forwarded them to police station. As such the subsequent deposition before the Court that hot altercation took place in a tea stall when PW4 and PW5 were having food is not acceptable, in view of their earlier version before the doctor and the Learned Magistrate. The submissions of the learned Advocate for the State that the victim girls were recovered from the rooms at Raj Hotel are much more believable than the contention of the learned Advocate appearing for the appellant that there is no evidence to suggest that PW4 and PW5 were present at the Hotel. The additional contention of the learned Advocate that the parents and the guardians of PW4 and PW5 being PW6, Rekha Mondal and PW7, Kanchan Mondal also did not support the prosecution case are irrelevant in view of the fact that they were not present either at the time of commission of the offence or when the raid was conducted. The further contention made by the learned Advocate appearing for the appellant that the learned Trial Court has solely relied upon the statement of the doctor whereas in Court separate narration of facts were divulged or disclosed by the victim girls and as such the version before doctors should not be relied upon also do not inspire any confidence in view of the other materials available, particularly the statement of the girls before the learned Magistrate. So far as the contention of the appellant regarding Section 2(a) and Section 2(f) of the ITP Act, 1956 is concerned there

the learned Advocate has stressed regarding the definition used in the Act for the term 'Brothel' and 'Prostitution', I am of the opinion that the same definition is clarified from the evidence on record for implicating the present appellant in view of the fact that in Section 2(a) of ITP Act the expression *"brothel.....or place or any portion of any house, room, [conveyance] or place, which is used for purposes [of sexual exploitation or abuse] for the gain of another person or for the mutual gain...."*. The definition contains an interpretation that any room which is allowed to be used for sexual exploitation or abuse and for the purpose of which there is a gain, the said room can be called a brothel. In this case the victim girls were 15 and 17 years, school student and no identification proof were there in the Hotel or the register reflected their presence and were allowed to be used. Thus the term/words used in Section 2(a) of the ITP Act i.e., 'room', 'sexual exploitation', 'abuse' and 'gain of another person' are satisfied in this case. Therefore, the term 'commercial purpose' used in Section 2(f) of the ITP Act cannot have a restrictive meaning and must receive wide interpretation to include hotels where sexual exploitation or abuse is carried out, as such the interpretation of the appellant that the Hotel do not come within the purview of the Act is not acceptable to this Court. In this case none of the documents which were admitted in evidence before the trial Court were contested at the time of admission or any challenge was made regarding the contents of the said documents. The seizure list Ext.1, reflects the place of seizure to be at Hotel Raj, Hutor Ghat, Mayapur, Nabadwip. The said seizure list reflects a register

book of Hotel Raj, voter identity card of Mahadeb Ghosh and packet of condom. Ext.2 reflects the place of seizure to be at Hotel Raj at Room no.2, Hutor Ghat, Mayapur, Nabadwip and the seized articles contained voter identity card and PAN card of Pradip Mondal and a packet of condom. Both these seizure list were signed by Mahadeb Ghosh and Pradip Mondal and the witnesses were PW1, PW2, PW15. No questions were raised to PW1 or PW2 regarding the place from where the seizure was effected. There is nothing on record to show also regarding the veracity of the evidence of PW15.

I have considered the evidence as a whole and in fact, from the examination of the appellant under Section 313 of the Code of Criminal Procedure it is evident that the appellant did not state in his examination with assertion that he was not the Manager of the Hotel Raj in spite of a specific question being raised before him by the learned Trial Court. The prosecution case from the inception is that the Manager had fled away in course of the raid. To that effect the evidence of PW11, the complainant is specific. Further from the defence case nowhere from the evidence it would be evident that the appellant denied to be the Manager of Hotel Raj.

Accordingly, having regard to the materials available on record both oral and documentary, I am of the opinion that the judgment and order of conviction and sentence passed by the Learned Trial Court do not call for any interference.

Thus, CRA 656 of 2019 is dismissed.

Pending applications, if any, are consequently disposed of.

Department is directed to send back the Lower Court Records to the respective Courts and communicate this judgment, so that effective steps are taken by the learned trial Court.

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

Urgent Xerox certified photocopy of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Tirthankar Ghosh, J.)