

CRR 4162 of 2008

In the matter of : Gourango Ghosh

Mr. Prabir Majumder
Mr. Snehanshu Majumder . . . for the petitioner

Mr. N. P. Agarwal
Mr. Pratick Bose . . . for the State

This criminal revision is the manifestation of displeasure of Gourango Ghosh who happens to be the de facto complainant of Krishnaganj Police Station Case No. 41/1995 registered under Sections 147/148/149/323/325 of the Indian Penal Code, which culminated into submission of charge sheet under Section 148/325/149/304 of the Indian Penal Code but at the time of framing of charge, the learned Trial Court was pleased to add Section 302 of the Indian Penal Code instead of Section 304 of the Indian Penal Code against thirteen accused persons who stood the trial by pleading their innocence. Learned Trial Court having considered the evidence of prosecution witnesses, both oral and documentary was pleased to record an order of acquittal.

Mr. Majumder, learned counsel appearing on behalf of the petitioner submits that the impugned judgement suffers from serious infirmity in as much as the testimony of P.W. 7, Gour Ghosh and P.W. 8 Rampada Ghosh were not appreciated by the learned Trial Court in its appropriate perspective. They are the

injured witnesses and there was no reason to disbelieve the testimony of both of them.

I have perused the impugned judgement wherefrom, I find that accused Sambhu Ghosh sustained severe injury on the vault of the skull and in the opinion of the attending doctor such injury was caused by hard and blunt object. Jogomaya, the mother of the accused Uday sustained injury caused by blunt object. The narrative of prosecution case indicates a free fight between the de facto complainant and his relatives on one side and the accused person on the other. The prosecution since failed to give any plausible explanation for head injury sustained by the accused Sambhu Ghosh, learned Trial Court refused to rely upon the prosecution story and in my view quite reasonably.

It is settled principle of law that unexplained injury on the person of the accused strikes at the root of the prosecution case, therefore, I do not find any reason to interfere with the judgement and order of acquittal passed by the learned Sessions Judge, Nadia in Sessions Trial No. 1 of September 2008 arising out of Sessions Case No. 31(6) 2003 corresponding to Krishnaganj P.S. Case No. 41/1995 dated 10.1.1995.

The criminal revision is bereft on merit and dismissed without any order as to costs.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)