

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

CRA 106 of 2011

**Mahendra @ Mohindar Shaw
-Vs-
The State of West Bengal**

With

C.R.A. 861 of 2006

**Sk. Raju @ Bangladeshi Raju @ Bachhu Das
-Vs-
The State of West Bengal**

For the Appellants (Amicus Curiae) : Mr. Jayanta Narayan Chatterjee

For the State : Mr. Binay Panda
Mr. Subham Bhakat

Heard on : 22.01.2024, 22.02.2024, 12.03.2024,
04.04.2024, 05.08.2024

Judgment on : 06.11.2024

Ananya Bandyopadhyay, J.:-

1. These two appeals are preferred against the judgment and order of conviction dated 20.11.2006 and 21.11.2006 passed by the Learned Additional Sessions Judge, Fast Track, 9th Court, Bichar Bhawan, Calcutta in Sessions Trial No.1(3) of 2003 arising out of Sessions Case No.4 of 2003 and thereby convicting the appellants to undergo rigorous imprisonment for

a term of 7 years and also pay fine of Rs.2,000/- each in default to suffer imprisonment for 3 months for committing offence under Sections 395/357 of the Indian Penal Code.

2. The prosecution case precisely stated on 10.08.2002 a complaint was filed by one Umesh Kumar Kanodia at Burrabazar Police Station inter alia informing that on 10.08.2002 at around 20:45 hrs, he was present at the office of the shop at the 1st floor along with other employees in and around the office. As they were getting ready to function the shop, three or four unknown persons within the age group of 20 to 29 years suddenly entered the shop. Two of them held revolvers in their hands and forcibly brought Raj Kumar Singh and Parasuram inside the office. Another person with one "Bhojali" in his hand stood inside the office room of the shop, one person with a revolver in his hand removed the telephone connections, both the persons with revolver in their hands aimed at them and threatened them with dire consequences. They demanded keys to the cash drawer lying with the de-facto complainant. The accused persons snatched the "key bunch" from the de-facto complainant and opened the drawer of the box underneath the gaddi wherein a cash of Rs.5,30,000/-(Five lakhs thirty thousands) only was kept. The accused persons took out the cash from the drawer and kept the same in a polythene packet. They also snatched the gold neck chain of the de-facto complainant weighing about 15 grams and two gold finger rings fitted with cat's eye and small diamond from de-facto complainant. They also recovered a cash of Rs.15,000/-(fifteen thousand) only from the cash box and disconnected telephone lines. Thereafter they snatched one mobile

phone, Sony make from Naresh Khandelwal bearing no. 9830253326. They also snatched one Gold finger ring from Ram Surat Singh. Before leaving the place they also disconnected intercom line and two of their employees namely Raj Kr. Singh and Poonam Chand Dugar were injured by them.

3. The de-facto complainant further mentioned in the complaint that just after leaving the premises, the accused persons hurled one bomb near the entrance gate of the premise.
4. Based on the aforesaid written complaint, Burrabazar Police Station Case No.158 dated 10.08.2002 under Sections 394/397 of the Indian Penal Code, 25(1B)(a)/27 of Arms act and 3 and 5 of Exclusive Substantive Act was initiated.
5. Charges were framed against the two appellants namely Rohit Das and Mohindar Shaw on 12/03/2003 under two heads, the first that on 10/08/2002 at about 20.45 hrs for forcefully entered into the shop room of M/S Binnyakji Shree House, on the 1st floor of the premises no. 152/A, Mahatma Gandhi Road, Kolkata 700007 and committed dacoity at the point of revolvers, bhojali, bomb etc., in respect of Rs.5,45,000/- and gold neck chain, three gold finger rings and mobile phone, thereby committing an offence punishable under section 395 of the Indian Penal Code. The second charge was framed against the above-named appellants for committing such dacoity inflicting bleeding injury on two employees of the said shop causing grievous hurt at the time of dacoity thereby committing an offence punishable under section 397 of the Indian Penal Code.

6. In the third charge, it was noted that firstly the appellants namely Sk. Raju @Bangladeshi Raju @ Bachhu Das along with Rohit Das and Mohendra Shaw and 4/5 others on 10/08/2002 committed dacoity at the point firearms and bhojali in the above-mentioned shop at about 20.45 hrs, appellant snatched Rs. 5,45,000/-, a gold chain, a 'Sony' make a mobile phone, three finger rings from the above-mentioned shop at the point of fire arms and bhojali on that day, thereby committing an offence punishable under section 395 of the Indian Penal Code. Secondly, on the same day, the appellants injured two employees of the above-named shop at the time of committed dacoity there and hurled a bomb while leaving the place, thereby committing an offence punishable under Section 397 of the Indian Penal Code.
7. In order to prove its case the prosecution cited 26 witnesses and exhibited certain documents.
8. Considered the submissions of the Learned Advocate appointed as Amicus Curiae and perused the written notes of arguments filed by the same.
9. Considered the oral argument as well as the written notes filed by the Learned Advocate representing the State.
10. The evidence of PW-16 corroborated the evidence of PW-19 Dr. Asit Kumar Biswas who had examined PW-16 and prepared an injury report with regard to his injury sustained by him due to the explosion of bomb marked as Exhibit 15/1.
11. The deposition of PW-17 the doctor who medically examined the injured Punam Chand Dugar and Rajkumar Singh endorsed the injury inflicted

upon the victim represented through the injury reports marked as Exhibit 10 and 11 respectively.

12. Both the appellants Mahendra alias Mohindar Shaw and Sk. Raju alias Bangladeshi Raju alias Bacchu Das had been identified by the witnesses in the Test Identification Parade held in the presence of PW-11 and PW-21 in the year 2002 and 2003 vide T.I. Parade Report marked as Exhibit 14 and Exhibit 20 respectively.
13. The stolen articles namely golden chain and the finger ring were recovered under a seizure list along with the signature of the witnesses marked Exhibit 18 and 19 respectively. The stolen articles were seized from the custody of the appellants.
14. PW-20 and 22 had been the seizure list witnesses in this regard.
15. PW-26 the S.I. of Anti Dacoity and Robbery Section had recovered the stolen articles as aforesaid from the possession of the appellants.
16. The Central Forensic Laboratory had opined the seized articles to be the remnants of exploded low explosive mixture vide its report marked as Exhibit-25.
17. The identification of the appellants at the place of occurrence armed with the weapons causing injury to the victim as aforesaid, the recovery of the stolen articles from the custody of the appellants, the bomb explosion by the appellants were proved by the prosecution vividly justifying the involvement of the appellants in the offence committed by them.

18. The Learned Trial Court has discreetly assessed the evidence on record with a reasoned judgment, convicted the present appellants and this Court is not inclined to interfere with the same.
19. In view of the above discussions, the instant criminal appeals being CRA 106 of 2011 and CRA 861 of 2006 are dismissed.
20. It is transpired from record vide orders dated 02.12.2011 and 01.02.2012, the bail application in connection with CRA 106 of 2011 was rejected by this Court. It is further revealed from the record that both the present appellants have already served out the sentence.
21. I record my appreciation for the able assistance rendered by Mr. Jayanta Narayan Chatterjee, Learned Advocate as Amicus Curiae in disposing of these appeals.
22. There is no order as to costs.
23. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
24. 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.)