

Form No.J(1)

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

Present:

The Hon'ble Justice Tirthankar Ghosh

C.R.A. 577 of 2019

**Ranjit Kumar Majhi
versus
Sashanka Chandra & Ors.**

For the Appellant : Mr. Deb Narayan Roy

For the O.P. Nos.1 & 2 : Mr. Ayan Basu
Mr. Sumit Routh

Heard On : 30-08-2024

Judgement On : 30.08.2024

Tirthankar Ghosh, J. :

The present appeal has been preferred against an order of acquittal in respect of the judgment and order dated 23.09.2015 passed by the Id. ACJM, Katwa in Complaint Case No. 152 of 2015.

The records of the case reflect that the learned trial court, after evidence before charge was concluded, framed charges against Sashanka Chandra under Sections 323/379/506 of the IPC against the accused Debashis Banerjee under Sections 427/506/34 of the IPC. The accused were, thereafter,

called upon to cross-examine the witnesses, who started the prosecution's case in order to rebut the charges.

It was pointed out in course of the hearing that the prosecution witness no. 2 and prosecution witness no.3 being Sri Adhir Kumar Mondal and Sri Kanan Mondal did not appear at the stage of evidence after charge and as such could not be cross-examined by the respondents/accused.

It is a settled principle of law that in an appeal against an order of acquittal there must be substantial and compelling reasons for a court of appeal to interfere as the basic criminal jurisprudence is that an accused is presumed to be innocent which is fortified by an order of acquittal.

I have considered the judgement delivered by the learned trial court wherein the learned trial court was pleased to take into account the following evidence :-.

"I. Around fifty staffs work in that office as per the revelation of the complainant. He raised hue and cry for help during the happening of the alleged incident. Finally, the complainant in his cross-examination that he did not go to any hospital for his medical treatment immediately after the alleged incident".

"II. The evidence of PW2 and PW3 merits no reference here as those two witnesses denied to have any knowledge about the alleged incident during their examination before charge and as there was no

statement embellishing the accused persons, their cross-examination were also declined by the defence”.

“III. The medical witness i.e., the PW-4 has expozited in his evidence that on 07-06-2012 he being a medical officer on duty at Katwa SD Hospital examined the complainant and he did not notice any external injury on the person of that patient but the patient complaint of pain in central abdomen and ascribed the reason of that pain being a physical assault on him on 05-06-2012. The injury report prepared by the said doctor was marked Ext-3 and the Emergency OPD Ticket of the Katwa SD Hospital dated 07-06-2012 was marked Ext-4. The said doctor opined in his examination that such kind of abdominal pain could be caused due to assault with fists and blows”.

“IV. In course of his cross-examination the PW-4 admitted that the medicine which he prescribed for the said patient are generally prescribed for treating acidity”.

Having considered that the learned Chief Judicial Magistrate, Katwa scanned through the evidence and arrived at its conclusion in respect of the charges not being proved and acquitted the accused persons, I reiterate that even if there is an alternate view, the same cannot be imposed by this court at this stage considering that there is no manifest error or any illegality in the evidence so recorded by the learned trial court.

Having considered the same, I am of the opinion that there is no illegality in the judgement and order of acquittal so passed in Complaint Case No. 152 of 2015 passed by the ld. ACJM, Katwa on 23.09.2015.

As such no interference is called for. Consequently, the criminal appeal being CRA 577 of 2019 is dismissed.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order 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.)