

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

PRESENT:

The Hon'ble Justice Rajarshi Bharadwaj
And
The Hon'ble Justice Apurba Sinha Ray

GA 25 of 1976
The Superintendent and Remembrancer
of Legal Affairs, West Bengal

-Vs-

Keshawa @ Kishori Lal Khatik & Ors.

For the State : Mr. Debashis Roy, Ld. APP
Mr. Partha P. Das

Heard on : 20.05.2025

Delivered on : 20.05.2025

Rajarshi Bharadwaj, J.:

- 1.** This is an appeal against an order of acquittal recorded in favour of the respondents passed by the Learned T. K. Banerjee, acquitting thereby the accused/respondents of the charges framed against them under Sections 302, 147 and 148 of IPC.
- 2.** That the case for the prosecution inter alia, was that the deceased Sankar Nath Bose son of Dr. Kalidas Bose (P.W.4) was a permanent resident of 57B, Mondal Street, Calcutta. He was a student of Srichaitanya College, Habra and used to reside there. On 1.1.1974 he was in Calcutta. On the same date

at about 7-7/30 p.m. Gobinda Mondal (P.W.14) on hearing something in the Club named 'Mondal Street Pally Samity' situated at 15/1, Mondal Street went to the junction of Mondal Street and Baishnab Seth Street and found the accused and many others at a distance of 25/30 cubits from the said junction and throwing soda water bottles towards South. In the said incident the deceased Sankar received injury on his right hand and went to Jorabagan Police Station. From the Police station at about 8/10 p.m. he went to Mayo Hospital where he was examined by Dr. Pradip Pramanik (P.W.15) who found three abrasions on the front side of his right palm. To the said Doctor the deceased stated that he was assaulted and beaten by the accused respondents Bokan Mookherjee, Chotka, Manik and others by soda water bottles. The said statement was recorded by the doctor (P.W.15) in the injury report.

3. It was further stated by the prosecution that when the said deceased was returning from the Jorabagan Police Station to his residence he found the accused respondents roaming in the Baishnab Seth Street. Being afraid the deceased again went to Jorabagan Police Station and reported the matter to S.I. Bose (P.W.29). Thereafter he again started for his residence along with Shibu (P.W.3) who was with him and when they reached the junction of Mondal Street and Sujendra Seth Lane, they found accused Manik Dutta standing in front of the Punjabi Hotel. Sankar asked Manik as to why he was standing there. Thereupon Manik replied 'Ebar Ktohai Jabira Sala'. At that time accused Keshawa with a knife in hand and accused Kapil Ram with a big stone came running. Kapil hurled the stone at Sankar which however did not hit him. In the meantime the other accused respondents and other 20/25 persons came running. Then accused Chotka and Manik started assaulting Sankar with fist and blows. Sankar fell down on his face in front of the coal shop situated at 26B, Mondal Street. In the meantime Bokan and Kamal came there running. Bokan then drew out his knife and thrust it on the left side of his back near waist. Thereafter accused Keshawa stabbed Sankar on the left side of his

chest. On the sight of Police the accused persons left the place. Thereafter P.W.14, Gobinda was called by Shibu (P.W.5) and requested him to bring a rickshaw for receiving Sankar, who was bleeding profusely, to hospital.

4. In the way to hospital Sankar, on being asked by Gobinda (P.W.4) told him that Bokan, Keshawa, Kapil, Manik, Chotka and others of their group assaulted him. At the hospital he was examined by Dr. Subhas Datta (P.W.23) in the Emergency Department. The Doctor asked regarding the cause of injury and Sankar stated to him that accused Bokan Mukherjee, Manik, Kapil, Keshawa and others attacked him from all sides and injured him with knives. Police wanted to record the statement of Sankar at about 11.45 p.m. but such permission was not granted, as the patient was not in a position to make any statement Sankar died in the said hospital on 2.1.1974 at about 3.35 p.m.

5. After completion of investigation and compliance of necessary formalities, charges were framed against the accused persons for committing offences punishable under Sections 302, 147 and 148 of IPC.

6. The prosecution in order to prove its case examined as many as 33 witnesses.

7. The Learned Judge after examining the accused/respondents under Section 313 of the Code of Criminal Procedure and after hearing the arguments advanced on behalf of the respective parties, was pleased by his judgment and order dated 25.04.1976 to acquit the accused/respondents of the charges framed against them.

8. Challenging the aforesaid order, the State moved this Hon'ble Court and after grant of leave, the present appeal has been preferred.

9. After admission of the appeal, but in view of the order proposed to be passed in this appeal in our opinion service of such notice can be dispensed with.

10. The Learned Public Prosecutor appearing for the State argues in favour of the appeal and seeks for remand of the matter for retrial.

11. We have gone through the evidence on record and the materials placed before the Learned Trial Judge during the course of the appeal. The reasoning recorded by the Learned Trial Judge for recording the order of acquittal can neither be said to be perverse nor without considering the materials placed before him.

12. It is a well settled proposition of law that an appellate court while dealing with an order of acquittal cannot interfere with the same only on the ground that a second view is possible. The reasoning of the Trial Judge while recording the order of acquittal in our opinion is a plausible view and as such, requires no interference.

13. Reliance in this context may be placed on the judgment of the Hon'ble Supreme Court in the case of Constable 907 Surendra Singh & Anr. Vs. State of Uttarakhand, reported in 2025 SCC Online, SC 176.

14. In view of the discussion made hereinbefore, the appeal dismissed.

15. Copy of the judgement along with Trial Court Records, if any, shall be sent back to the trial court at once for necessary compliance.

16. Urgent Photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all requisite legal formalities.

[Rajarshi Bharadwaj, J.]

I agree

[Apurba Sinha Ray, J]