

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 11 of 1990
The State of West Bengal
Vs.
Safajuddin Ansary & ors.

For the State	:	Mr. Debasish Roy, Ld. P.P.
	:	Mr. Partha Pratim Das, Adv.
Heard On	:	30.06.2025
Judgment Delivered On	:	30.06.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that four accused persons and Basiruddin Ansary and Nizam Ansary are six sons of late Garil Ansary, of Village Bhaluka under P.S Kashipur. Two brothers namely, Basir and Nizam did not reside with their brothers who were accused in this case as the relation was not good with them over certain land dispute. They resided in an abandoned lime factory at the outskirts of village Mahulkoka. On 16th Chaitra, 1388 (30th March, 1982), Basiruddin with Gofur and Rahamatulla left from lime factory for purchasing betel leaf. All of a sudden four accused persons appeared there and followed them. Safajuddin, Afajuddin and Allauddin assaulted Gofur with lathi at his leg and Chhunauddin assaulted him with a small axe on his head. He fell down on the ground and died subsequently. Rahamatulla returned and informed the incident to Nizam. Nizam with

Biswanath Thakur informed the incident to the Police. In the evening, Sk. Rafique, filed a written complaint to the Kashipur Police Station.

2. On the basis of the said written complaint, an FIR was lodged, being no. Kashipur Police Station case no. 11 dated 30.03.1982 under sections 302/34 of I.P.C. After completion of the investigation, the police submitted charge-sheet under sections 302/34 of I.P.C before Sub-Divisional Judicial Magistrate, Purulia. After commitment, the case was transferred to the Court of the Additional Sessions Judge, Purulia for trial and disposal. The prosecution has examined as many as 17 witnesses to prove its case.

3. The Learned Court in its judgment observed that inquest was done first and thereafter the written complaint of Sk. Rafique was received. The important document like G.D Entry no. 718 dated 30.03.1982 was not produced before the court. There was a conflict between the evidence of eye witnesses and autopsy surgeon. On the basis of the evidence of two witnesses i.e., PW1, Sk. Rafique and PW14, Nizam, the prosecution case cannot be proved as there was long standing enmity between the accused and these two witnesses.

4. By judgment and order dated 26.04.1988, the accused persons, namely, Safajuddin Ansary, Afajuddin Ansary, Allauddin Ansary and Chhunauddin Ansary were found not guilty under section 302/34 of I.P.C. and they were acquitted from all the charges of the case.

5. Challenging the said judgment of acquittal, the State has preferred this appeal on 29.11.1988. In spite of service, the respondents remained unrepresented, and as such, the matter is taken up for disposal on its merits.

6. The Trial Court, after compliance with necessary formalities, recorded an order of acquittal which is under challenge before this Hon'ble Court. In spite

of service, the respondents are unrepresented, and hence, the matter is taken up for disposal on merits.

7. In our view, it will not prejudice the respondents even if the service is dispensed with after taking into consideration all materials available on the record and in view of the order that we propose to pass.

8. We have heard the Learned Public Prosecutor who argues in favour of the appeal and points out some infirmities in the order of the Trial Judge.

9. This court, however, is not convinced with the arguments advanced on behalf of the State since, according to us, the order of acquittal has been recorded by the Learned Trial Judge upon consideration of all the materials placed before him.

10. In view of the law laid down by the Hon'ble Apex Court from time immemorial and recently in the case of Constable 907 Surendra Singh & Anr. Vs. State of Uttarakhand, reported in 2025 SCC Online, SC 176, We do not think there is any scope for interference by this Hon'ble Court as the impugned judgment and order seems to be justified and reasonable.

11. Accordingly, the appeal fails and is, thus, dismissed. No order as to costs.

I Agree.

(RAJARSHI BHARADWAJ, J.)

(APURBA SINHA RAY, J.)