

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 2 of 1985
The State of West Bengal
-Vs-
Angad Singh & Ors.

For the State : Mr. Debashis Roy, Ld. PP
Ms. Faria Hossain
Ms. Sujata Das

For the respondents: Mr. Dipankar Aditya
Ms. Aishwarya Priya Raha

Heard on : 25.06.2025

Delivered on : 25.06.2025

Rajarshi Bharadwaj, J.:

1. From the report filed by the Officer-in-Charge, Rishra Police Station whereas it is seen “during enquiry it was revealed that Angad Singh S/o Lt. Ram Ashray Singh of 41/1/C G. T. Road Rishra died on 10.12.2001 and Ram Ashrey Singh S/o Lt. Kalicharan Singh of 41/1 G. T. Road died on 09.04.1995. Whereas Ajoy Singh S/o Lt. Ram Ashrey Singh of 41/1/C G. T. Road Rishra, Mahananda Singh S/o Lt. Ram Nagina Singh of 41/1/A G.T. Road Rishra and Mahabir Singh S/o Lt. Ram Nagina Singh of 41/1/A G.T. Road Rishra are alive and residing in above noted address who are the respondents in the above matter.

2. The prosecution case, inter alia, is as follows:

3. In the said Sessions trial, originated on a charge-sheet by the police pursuant to the information by P.W.1 Dudnath Singh, treated and registered as Serampore P.S. Case No.25 dated 10.09.1981, the accused persons abovenamed were placed on trial and tried on the charges under Section 304/34 of the Indian Penal Code for having caused in furtherance of a common intention of them all, bodily injuries on Shyambahari Singh, hereinafter called the "deceased", at about 8:30 p.m. that day at Paras Singh Road, Rishra by means of lathi, bricks etc. with the knowledge that such injuries were likely to cause death in ordinary circumstances, and also tried under Section 307 read with section 34 of the Indian Penal Code for causing grievous on some of the P.W.s variously with such intention for knowledge that if death was caused thereby they would have been guilty of murder.

4. The accused pleaded innocence to the charges. Their further defence appears to be that the occurrence did not take place in the circumstances as alleged but under different circumstances, though at the time and at the place as alleged by the prosecution. That the incident culminated owing to the lorry of accused Angad being wrongfully detained by the complainant party at the said Paras Singh Road which was not a no entry area as the lorry was coming back after unloading the goods of Angad Singh. That the complainant party charged that the lorry dashed down some bricks on the way side belonging to some of the P.Ws. and in course of altercation over the same and over the entry of the lorry, a fight however ensued and bricks were hurled from the roof of the adjoining house.

5. In support of the prosecution 16 witnesses were examined, of whom P.W.1 Dudnath Singh, P.W.2 Rajendra Singh, P.W.3 Sherbahadur Singh, P.W.4 Sm. Rajkishori Devi (widow of the deceased), P.W.5 Mahesh Singh, P.W.7 Achari Singh, P.W.8 Harendra Singh and P.W.11 Sudama Singh are witnesses to the occurrence or to be parts thereof, they not having coming to the P.O. all

at a time or having not the same opportunity of vision or the same power of memory. P.W.6 and P.W.9 are Medical Officers of Walsh Hospital, Serampore, who examined the injured P.Ws including Shyambehari Singh, who though admitted in the hospital that day was however removed to Medical College Hospital, Calcutta, the following day where he succumbed to the injuries on 19.09.1981. He was in unconscious state all the time. P.W.14 is the doctor of the Medical officer who held the post mortem examination on the body of Shyambehari Singh on his head and on another part of his body and the same might be caused by bricks or by any blunt substance. P.W.15 is the investigating police officer, others are formal witnesses either examined or tendered and cross-examined.

6. The Learned Sessions Judge, however, by his judgment and order dated 22.09.1984 as above has been pleased to find the accused not guilty of the charges and thus acquitted the accused.

7. In rendering his judgment, the Learned Sessions Judge appears to have entertained a doubt in prosecution case, in as much as according to the learned Judge, of the two versions, the defence version was more consistent with the circumstances of the case and the prosecution witnesses suppressed the true story.

8. In coming to such ultimate conclusion as above, the learned Judge again appears to have been persuaded by his consideration that the injuries on the accused were not explained and further the evidence of the P.Ws. in Court in some respects differ from their statements before the I.C. under Section 161 of the Code of Criminal Procedure.

9. The Trial Court after compliance of necessary formalities, recorded an order of acquittal which is in challenge before this Hon'ble Court. In spite of service of administrative notice, the accused/respondents are unrepresented and as such, we propose to deal with the appeal on its merits as no one responded even after issuance of such administrative notice.

10. Dispensing with the service upon the respondents as in our view, it will not be prejudicial in the interest of the respondents for the order we propose to pass.

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

12. We are, however, not convinced with the arguments advanced on behalf of the State by the learned Public Prosecutor in view of the fact that the order of acquittal has been recorded by the learned Trial Judge upon consideration of all the materials placed before him.

13. In view of the proposition 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.

14. Accordingly, the appeal fails and is dismissed, however, with regard to no order as to costs.

15. Copy of this judgment along with the trial court records be sent down to the trial court immediately.

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]