

**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 19 of 1986
The State of West Bengal
Vs.
Madan Mukherjee**

For the State	: Mr. Debasish Roy, Ld. P.P. : Mr. Saibal Bapuli, Ld. A.P.P. : Mr. Bibaswan Bhattacharya, Adv.
For the Respondent	: Mr. Partha Sarathi Bhattacharyay, Adv. Ms. Sukla Das Chandra, Adv.
Heard On	: 26.06.2025
Judgment Delivered On	: 26.06.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that on 28.07.1984 at about 9 p.m. on Shimla Street, Calcutta, when the accused and victim were chasing each other in their respective motorcycles for a fun, the accused murdered the victim, namely, Subhas Ghosh by razor blows on his throat. The victim was brought dead to the Calcutta Medical College and Hospital. The accused was also injured and the razor was recovered from the accused after his arrest.

2. After the incident, an FIR being no. Jorasanko Police Station Case no. 373 dated 29.07.1984 under section 302 of I.P.C was lodged. After completion of the investigation, the police submitted charge-sheet under Section 302 of the I.P.C before Metropolitan Magistrate Court, Calcutta. After commitment, the

case was transferred to the Court of Sessions Judge, City Sessions Court, Calcutta for trial and disposal. The prosecution has examined as many as 24 witnesses to prove its case.

3. The Learned Court in its judgment observed that the razor which was used to commit the diabolical murder has not been proved by the prosecution. The seizure witnesses could not found their signature on the label of exhibit. Moreover, the top of the razor was found broken by the doctor. The police arrested the accused who was found on the road and lying injured. It was peculiar that police arrested a person and took him in custody who was lying injured on the road and thereafter recovered weapon from his pocket. Moreover, it was found that the razor was recovered in the morning of 29.07.1984 and kept in malkana until 10.09.1984 from the date of seizure. The weapon was alleged to have been examined by the doctor. If the weapon was in malkhana, then how the doctor examined the razor and rendered his opinion. The Assistant Serologist attached to Government of India Forensic Medicine stated that the department received the razor on 14.05.1985. The nature of the blood found in the razor was not reported to be detected. It was not found whether it was human blood or not. Lastly, no local witnesses saw the accused to commit the alleged offence as they were post occurrence witnesses.

4. By judgment and order dated 08.04.1986, the accused person, namely, Madan Mukherjee was found not guilty under section 302 of the I.P.C. and he was acquitted from all the charges of the case.

5. The State has preferred this appeal on 20.08.1986, challenging the said judgment of acquittal. In spite of service, the respondent 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 respondent is unrepresented, and hence, the matter is taken up for disposal on merits.

7. In our view, it will not prejudice the respondent 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.)