

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 1990
The State of West Bengal
-Vs-
Genachan Khatun & Anr.

For the State : Mr. Debashis Roy, Ld. PP
Mr. Partha Pratim Das

Heard on : 30.06.2025

Delivered on : 30.06.2025

Rajarshi Bharadwaj, J.:

1. This is an appeal against an order of acquittal recorded in favour of the respondents acquitting thereby the accused/respondents of the charges framed against them.

2. On 21.04.1985 at about 10:00 a.m. victim Shadeja Khatun was playing with Majera Khatun (P.W.9) and some girls in the house of Kohinur Sheikh (P.W.11). At that time accused Genachan called away Shadeja by offering some grams. Since then the girl was missing. Majera Khatun (P.W.9) disclosed this facts to parents of the victim girl. Thereafter search was made in various houses and places. Ultimately the house of accused Islam, father of the accused Genachan was also searched at night. Nothing was recovered from that house despite search. But one room of the house of the accused, however,

could not be searched as it was under lock and key. Next morning, a missing diary was lodged at Mayureswar Police Station. The search for missing girl, however, continued. During the search, Baijit (maker of the F.I.R and P.W.1) found that accused Genachan Khatun, daughter of the accused Islam left the dead body of Shadeja at a bush by the side of the tank. Baijit (P.W.1) caught hold of Genachan and raised alarm which attracted the witnesses. Asrat Ali, Ghorbali Bibi, Kohinur Sheikh, parents of the victim girl etc. Baijit narrated to the witnesses that he caught the accused Genachan while she had been leaving the dead body away at the bush. It was suspected that accused Genachan killed Shadeja Khatun to take away the ornaments from the nose and ear of the victim. F.I.R. lodged to the local police station and case no.10 dated 21.04.1985 was started.

3. That gold ear-ring, a blood stained busket and chot was recovered from the house of the accused Islam Sheikh on being produced by the accused Genachan.

4. That after completion of the investigation charge-sheet was submitted by the police against the accused persons for the offence punishable under Sections 302/201/379/34 of the Indian Penal Code.

5. That the charge for the offence punishable under Sections 302 and 201 of the Indian Penal Code was framed against both the accused persons to which they pleaded not guilty and claimed to be tried.

6. That after the completion of the trial the learned Additional Sessions Judge, Birbhum at Rampurhat was pleased to acquit both the accused persons from the charge leveled against them by his order and judgment dated 09.01.1990.

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

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

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

10. 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.

11. 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.

12. 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.

13. In view of the discussion made hereinbefore, the appeal is dismissed.

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

15. 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]