

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 1 of 2003
The State of West Bengal
Vs.
Kamal Paul & Ors.

For the State : Mr. Debasish Roy, Ld. P.P.
: Mr. Parthapratim Das, Adv
: Manasi Roy, Adv.

Heard On : 03.07.2025

Judgment Delivered On : 03.07.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that on 08.01.1999 at about 8.15 p.m while the deceased, Chinmoy Deb along with his brother Tanmoy Deb and another local boy, Anjan Ghosh were playing carrom at Sabuj Sangha Club, Pratapur Village, Howrah, the accused persons attacked them with bombs. As a result of such bombing, Chinmoy sustained severe injuries and he was moved to Hooghly Imambara hospital and died there. Uncle of the deceased, Samar Deb, filed a complaint to Chinsura Police Station and a police case being no. Chinsura Police Station Case No. 9 dated 08.01.1999 under sections

324/326/302/34 of I.P.C and section 9(b) of the Indian Explosives Act, 1884 was started.

2. After investigation, charge-sheet was submitted under sections 302/120B/326/324/34 of I.P.C and section 9(b) of the Indian Explosives Act, 1884 before the Learned Sub-Divisional Judicial Magistrate Hoogly and the case was committed to the Learned Sessions Judge, Hoogly for trial and disposal. Thereafter, by the order of Hon'ble High Court the case was transferred to the Court of Sessions Judge, Howrah for trial. The prosecution has examined as many as 36 witnesses.

3. The Learned Sessions Judge, Howrah found that there was an inimical relationship between the deceased and Tanmoy, Anjan, Subrata, Sk. Salim with the accused Jakir and Tukun. The prosecution witnesses failed to satisfy the court that the injuries suffered by the deceased were due to bombs. Each of the four accused person hurled one bomb aiming at them has not been proved in the case. There is no corroborative evidence to establish the allegation that accused Mona Singh and Jahir Uddin had conspired to murder the victim. Moreover, the opinion of doctor corroborates with the evidence of PW20 who admitted in his cross examination that the explosion was caused while the deceased was manufacturing the bomb.

4. By judgment and order dated 25.04.2002, the accused persons, namely, Kamal Paul, Tukun @ Iman Hossain, Jakir Ahmed, Mona Singh and Jahir Uddin were found not guilty under sections 302/120B/326/324/34 of I.P.C and section 9(b) of the Indian Explosives Act, 1884 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 16.07.2002. 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 also 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.

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

I Agree.

(RAJARSHI BHARADWAJ, J.)

(APURBA SINHA RAY, J.)