

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Prasenjit Biswas**

C.R.A. 47 of 1996

Rengta Hansda @ Bhuto

-Versus-

The State of West Bengal

For the Appellant : **Mr. Soumyajit Das Mahapatra,
Mr. Madhurai Sinha,
Ms. Upasana Banerjee.**

For the State : **Mr. Amita Gour, Sr. Adv.
Mr. Asif Dewan.**

Hearing concluded on : **13.08.2025**

Judgment On : **10.11.2025**

Prasenjit Biswas, J:-

1. The instant appeal is directed against the impugned judgment and order of conviction dated 22.02.1996 passed by the learned Additional Sessions Judge, 6th Court, Midnapore, in Sessions Trial No. XIV of September, 1994 on behalf of the appellant.

2. By passing the impugned judgment, the present appellant was found guilty for commission of offence under Section 326 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for three years along with fine of Rs. 1000/- and in default of payment of fine to undergo further rigorous imprisonment for one month.
3. Being aggrieved by and dissatisfied with the said impugned judgment and order of conviction, the present appeal has been preferred at the behest of the appellant-convict.
4. In brief, the prosecution story as projected in this case may be summarised as follows:

“The present case originated from a written complaint lodged by the defacto complainant, alleging that on 20.05.1991, at around 3:00 P.M., during the ongoing election process at village Chamarbandh, PW1, namely Amit Shit, was allegedly assaulted with a ‘lathi’ by Bir Hansda, resulting in an injury to his shoulder. Later on the same day, at approximately 4:00 P.M., the complainant Amit Shit along with Subrata Giri and Gorachand Mandi proceeded to the Gopiballavpur Primary Health Centre on a motorcycle for medical treatment. After receiving treatment, while the trio was returning to their village around 6:00 P.M., and when they were about to

enter village Chamarbandh, they allegedly noticed the present appellant and another person standing on the road, one armed with a tangi (axe) and the other with bow and arrows. The appellant, holding the tangi, allegedly struck Subrata Giri on the head. However, since Subrata was wearing a helmet, the tangi blow fell upon the helmet, breaking its handle which dropped to the ground. The complainant (PW1) claimed that he attempted to pick up the broken tangi from the ground, but the other accused, who was armed with bow and arrow, moved towards him, forcing him to retreat. Taking advantage of the situation, the appellant allegedly picked up the tangi again and struck Subrata on his face. It was further alleged that the other accused aimed his bow and arrow at the complainant, causing him to flee into the nearby jungle out of fear. The complainant then informed the villagers about the occurrence. Subsequently, Subrata Giri, who was found in a bleeding condition, was taken to Gopiballavpur Primary Health Centre for medical assistance. As his condition worsened, he was later referred to Jhargram Hospital for further treatment. On the basis of the said complaint, a case being Nayagram Police

Station Case No. 23/91 dated 21.05.1991 was registered against Rengta (the present appellant) and Bir Hansda, under Sections 326 and 323 of the Indian Penal Code, alleging their involvement in the said assaults forming part of two distinct incidents that occurred on the same day.”

5. After completion of investigation charge-sheet was submitted by the prosecuting agency against this appellant and the other acquitted accused under Sections 326, 323 and 307 of the Indian Penal Code. Charge has been framed by the Trial Court against the accused persons under Sections 326/34, 307/34 and 323/34 of the Indian Penal Code. One of the charge-sheeted accused namely, Srikanta Dandapat died during pendency of the case.
6. In this case, eleven (11) witnesses were cited by the side of the prosecution and documents were marked as exhibits on its behalf. Neither any oral, nor any documentary evidence was adduced on behalf of the accused persons.
7. Mr. Soumyajit Das Mahapatra, learned Advocate appearing on behalf of the appellant, has forcefully contended that the impugned judgment and order of conviction passed against the present appellant is wholly unsustainable in law, as the same runs contrary to the weight of evidence available on record and is the outcome of an

erroneous and improper appreciation of materials by the learned Trial Court. It is his submission that the learned Trial Court, while rendering its findings, has failed to consider the inherent inconsistencies, contradictions, and procedural lapses that vitiate the prosecution case. Consequently, the conviction, being based on an incomplete and defective assessment of evidence, is liable to be set aside.

- 8.** The learned Advocate has further argued that the very foundation of the prosecution case, namely, the charge framed against the appellant, suffers from serious legal infirmities and defects, which have caused grave prejudice to the accused in the conduct of his defence. It is submitted that the charge under Section 326 read with Section 34 of the Indian Penal Code framed against the appellant is defective, as it does not specify the essential particulars such as the place of occurrence and the time of occurrence, which are mandatory under the law. Although the charge mentions the police station as “Narayangarh”, it has been pointed out that the said police station is located approximately 40 kilometres away from the actual place of occurrence. This factual discrepancy, according to the learned Advocate, creates serious doubt regarding the authenticity and accuracy of the prosecution story and undermines the integrity of the charge itself.

- 9.** It is further contended that similar defects are found in the charges framed under Section 307 read with Section 34 and Section 323 read with Section 34 of the Indian Penal Code. In both instances, the charge-sheet does not contain the specific date, time, or place of occurrence, but instead uses vague expressions such as “same day” and “same place”. Such ambiguity, the learned Advocate submits, has the effect of confusing the accused as to the exact nature of the offence he is alleged to have committed and the circumstances surrounding it. This omission, therefore, strikes at the very root of a fair trial, as it deprives the accused of the opportunity to know with precision the allegations against him and to prepare an effective defence.
- 10.** According to Mr. Mahapatra, the framing of charge in this case is in clear violation of Section 212(1) of the Code of Criminal Procedure, which mandates that every charge shall contain such particulars as to time, place, and person as are reasonably sufficient to give notice to the accused of the matter with which he is charged. The non-compliance with this statutory requirement has rendered the entire trial irregular and has caused substantial prejudice to the appellant’s right to a fair and just trial, guaranteed under the law.
- 11.** It is, therefore, the firm submission of the learned Advocate that the trial has been conducted in violation of procedural safeguards and

that the defect in the framing of charge is not a mere technicality but a fundamental error which goes to the root of the case. The appellant, having been deprived of a fair opportunity to defend himself due to such defective charges, cannot be held guilty on the basis of a trial conducted in contravention of law. Consequently, the impugned judgment and order of conviction deserve to be set aside, and the appellant is entitled to be acquitted of all charges.

12. In support of his contention, a judgment passed by the Division Bench of this Court in case of **Ismile Seikh @ Khayapa-vs-State of West Bengal** reported in **2000 SCC OnLine Cal 290** is referred. It is said by the learned Advocate that in the said report the Hon'ble Division Bench at the time of dealing with a death reference case has held that failure of justice has been occurred for non-mentioning of time and place of occurrence in charge which violated mandatory provision of Section 212 of Cr.P.C. So, it is said by the learned Advocate that due to the faulty charge framed by the accused person, this appellant may be acquitted on that score alone.
13. Mr. Das Mahapatra, has further assailed the impugned judgment and order by contending that the entire prosecution case is tainted with malice and motivated by political rivalry between the complainant and the appellant. It is argued that from a close and careful reading of the depositions of P.W.1, P.W.2, and P.W.4, it

clearly emerges that there existed a long-standing political dispute between the two sides, which provides a strong motive for the complainant party to falsely implicate the appellant in this case. The learned Advocate submits that when evidence on record discloses such political enmity, it becomes imperative for the Court to exercise greater caution before placing reliance on the testimony of interested or partisan witnesses, as there always remains a distinct possibility of false accusation driven by political animosity.

- 14.** The learned Advocate further submitted that the prosecution case is shrouded in suspicion owing to the inordinate and unexplained delay in lodging the First Information Report (FIR). As per the contents of the FIR itself, the alleged incident occurred on 20.05.1991, between 3:00 P.M. and 6:00 P.M., but the FIR was not lodged until the following day, that is, 21.05.1991 at 16:45 hours (4:45 P.M.). Even more striking is the fact that the endorsement on the order sheet and the seal of the learned Sub-Divisional Judicial Magistrate (S.D.J.M.) show that the FIR was “seen” by the Court only on 24.05.1991, i.e., four days after the alleged occurrence and three days after the FIR was formally recorded.
- 15.** It is contended by Mr. Das Mahapatra that this delay in forwarding and placing the FIR before the learned Magistrate is of serious consequence, as it affords ample opportunity for manipulation,

fabrication, and embellishment of the prosecution story. According to the learned Advocate, the prosecution has failed to offer any satisfactory explanation for such delay either in lodging the FIR or in its transmission to the Court. This omission creates a reasonable doubt about the genuineness, spontaneity, and authenticity of the FIR, which is supposed to be the earliest version of the incident.

- 16.** The learned Advocate further argued that the unexplained delay in lodging and placing the FIR before the Magistrate casts a serious shadow over the origin and genesis of the alleged occurrence, suggesting that the complaint may have been a product of afterthought, designed to falsely implicate the appellant due to prior political hostility. The learned Advocate emphasizes that when there is admitted enmity between the parties, coupled with delay in filing the FIR, the Court must look for independent corroboration before acting upon the testimony of partisan witnesses. In the absence of such corroboration, it would be unsafe and unjust to convict the appellant on the basis of a doubtful and possibly motivated prosecution case.
- 17.** In view of these circumstances, Mr. Das Mahapatra submits that both the political rivalry between the parties and the inordinate, unexplained delay in setting the criminal law in motion seriously undermine the credibility of the prosecution story. These factors,

taken together, raise grave doubts about the truthfulness of the allegations and strongly indicate the possibility of false implication of the appellant. Therefore, it is contended that the conviction recorded by the learned Trial Court is unsustainable in law and ought to be set aside.

18. Reliance has been placed by the learned Advocate upon a decision rendered by the Division Bench of this Court in the case of **Mostafa Sk. alias Mostu Sk. & Anr.-vs- State of West Bengal** reported in **2014 SCC OnLine Cal 17542**. It is said by the learned Advocate that in the said report this Court held about the effect of delay in sending FIR to the Magistrate which remained unexplained and accordingly the same was held to be fatal.
19. Mr. Das Mahapatra, learned Advocate for the appellant, has further contended that there are several glaring lapses and omissions in the prosecution case which seriously undermine its credibility and authenticity. He has pointed out, with emphasis, that no offending weapon, such as the alleged *tangi* or *bow and arrow*, was ever recovered or seized by the Investigating Officer. Likewise, the broken helmet and motorbike, which were said to be directly involved in the incident, were also not seized from the place of occurrence. Moreover, the Investigating Officer failed to collect controlled earth samples from the spot, which could have scientifically established that the

incident actually took place at the alleged location. The learned Advocate has also drawn the attention of this Court to another serious deficiency that the Investigating Officer did not prepare any sketch map of the place of occurrence. This omission, according to the learned Advocate, creates a serious doubt about the authenticity and genuineness of the prosecution's version and raises suspicion as to whether the alleged occurrence took place at all in the manner described.

- 20.** Further, reference has been made to the evidence of PW3 and PW7, both of whom have stated that while the appellant, along with the co-accused, was allegedly assaulting the injured, a police jeep happened to be passing by the spot and that the injured person was shifted to the hospital in that police vehicle. However, it is highly astonishing and improbable, as argued by the learned Advocate, that despite the alleged presence of police officials at or near the scene, none of them made any attempt to apprehend the accused persons on the spot or take immediate legal action.
- 21.** Equally surprising is the fact that none of those police personnel or the driver of the jeep were examined as witnesses or even cited in the charge-sheet. Their testimonies could have been the most natural, independent, and reliable evidence to substantiate the prosecution story. The prosecution's failure to produce such crucial witnesses,

therefore, casts a long shadow of doubt over its case and renders the entire version highly doubtful and untrustworthy.

22. Mr. Das Mahapatra lastly submitted that the examination of the accused/appellant under Section 313 of the Code of Criminal Procedure was not done in accordance with law by the Trial Court as the same did not offer to the accused person, a full and complete opportunity to explain away all the circumstances appearing against them during the trial. It is said by the learned Advocate that in a similar situation like faulty examination under Section 313 Cr.P.C. the Hon'ble Apex Court acquitted the appellant therein. The said decision was rendered by the Apex Court in case of **Sukhjit Singh-vs- State of Punjab**, reported in **(2014) 10 SCC 270 (Paragraph 10 to 14)**.
23. Placing reliance upon the decision rendered in **Mamfru Chowdhury v. King-Emperor**, reported in **AIR 1924 Cal 323**, the learned Advocate for the appellant has contended that it is a well-settled principle of criminal jurisprudence that the prosecution must establish its case by proving that the alleged incident occurred at the specific time, place, and in the exact manner as narrated in the prosecution story. In the present case, the prosecution has failed to discharge this burden by not substantiating the occurrence with cogent and reliable evidence corresponding to the circumstances

alleged. Consequently, it is urged that the prosecution case cannot stand on such infirm footing, and therefore, the impugned judgment and order of conviction passed by the learned Trial Court deserve to be set aside, allowing the present appeal filed on behalf of the appellant.

- 24.** Mr. Amita Gour, learned Senior Advocate appearing for the State, vehemently opposed the submissions advanced on behalf of the appellant and contended that there exists no infirmity or illegality in the judgment and order of conviction passed by the learned Trial Court which would warrant interference by this Court. According to the learned Senior Advocate, the prosecution case has been clearly and consistently established through the evidence of multiple witnesses, whose testimonies have withstood the test of cross-examination and fully corroborate each other on all material particulars.
- 25.** It has been submitted that the prosecution witnesses, particularly PW1, PW4, and PW5, have given a clear, consistent, and coherent account of the sequence of events. PW1, one of the injured witnesses, categorically stated that the accused-appellant Bir Hansda first assaulted him with a lathi on his shoulder during the election process, causing him injury. Later in the day, at around 6:00 P.M., when PW1 along with Subrata Giri and others were returning home

from the hospital on a motorcycle, they found the appellant Rengta standing on the road armed with a tangi. It is further deposed that Rengta attacked Subrata on his head with the tangi, which struck his helmet and broke into two pieces, one portion falling to the ground while the other remained in Rengta's hand. PW1 also testified that when he attempted to pick up the broken tangi, another accused armed with a bow and arrow aimed at him, compelling him to flee towards the jungle to save himself. Before fleeing, he saw the appellant assaulting Subrata twice, and thereafter he rushed to the village and informed the villagers about the incident.

- 26.** The learned Advocate further pointed out that PW4, Gora Chand Mandi, corroborated the testimony of PW1 in all material aspects. PW4 also stated that he was accompanying Amir and Subrata on a motorcycle and saw Rengta attacked Subrata on his helmet with the tangi, which broke into two pieces — one part falling to the ground and the other remaining with the accused. This evidence, it is submitted, lends strong corroboration to the account given by PW1.
- 27.** Attention of the Court was also drawn to the evidence of PW5, Subrata Giri, another injured witness, who gave a detailed account of his assault. PW5 clearly stated that he was attacked by Rengta with a tangi, and after receiving the blow, he fell to the ground and was dragged towards the jungle, where he was again assaulted on

different parts of his body, sustaining bleeding injuries and eventually losing consciousness. According to the learned Advocate, this testimony provides direct and cogent evidence of the appellant's involvement in the commission of the offence under Section 326 of the Indian Penal Code, and it remains unshaken in cross-examination.

- 28.** Mr. Gour submitted that the defence failed to elicit any material contradiction or inconsistency in the depositions of the prosecution witnesses which could render their evidences unreliable. The witnesses' accounts are natural, consistent, and trustworthy, and there is nothing on record to suggest that they had any motive to falsely implicate the appellant.
- 29.** In view of the overwhelming and credible evidences adduced by the prosecution, the learned Advocate contended that the Trial Court rightly found the appellant guilty of the offence charged. The prosecution has successfully proved the case beyond all reasonable doubt, and the findings of the Trial Court are based on sound reasoning and appreciation of evidence. Accordingly, Mr. Gour urged that the appeal is devoid of merit and ought to be dismissed outright, upholding the conviction and sentence imposed upon the appellant.

- 32.** I have carefully examined the rival contentions put forth by the learned counsels for both sides and have meticulously gone through the entire record and materials available on the case file for a proper adjudication of the matter.
- 33.** The complaint lodged by the defacto complainant clearly narrates that the alleged occurrence took place on 20.05.1991 at two distinct points of time — first at 3:00 P.M. and thereafter again at 6:00 P.M., thereby indicating that there were two separate and independent incidents on the same day. However, it is of great significance that despite these two alleged assaults occurring in close succession and involving serious injuries, the First Information Report (FIR) was not lodged immediately, but only on the next day, i.e., 21.05.1991 at 16:45 hours.
- 34.** A careful examination of the order-sheet and the official seal of the Court further reveal that the said FIR was placed before and perused by the learned Sub-Divisional Judicial Magistrate (S.D.J.M.) only on 24.05.1991, which were four days after the date of the alleged incidents and three days after its registration by the police. This inordinate and unexplained delay in both lodging the FIR and in forwarding it to the Magistrate casts a serious shadow over the credibility and authenticity of the prosecution's version of events.

- 35.** The prompt filing of an FIR is of paramount importance in criminal jurisprudence, as it serves to corroborate the spontaneity and genuineness of the complainant's version. A delayed FIR, unless satisfactorily explained, tends to suggest the possibility of afterthought, embellishment, or fabrication. It is well-settled that the earliest version of the occurrence, when lodged without delay, reflects the true and uncoloured version of the events as perceived by the complainant. Conversely, when there is a significant gap between the occurrence and the registration of the FIR, it provides an opportunity for deliberation and consultation, thereby undermining the reliability of the allegations.
- 36.** In the present case, the prosecution has offered no plausible or convincing explanation for why the FIR was registered nearly 24 hours after the alleged assaults and why it took an additional three days for the same to reach the learned Magistrate. Such procedural lapses strike at the very root of the prosecution's credibility. The delay in transmission of the FIR to the Magistrate, as mandated under Section 157 of the Code of Criminal Procedure, is not a mere technical omission but a substantive irregularity, particularly in cases involving allegations of serious offences.
- 37.** This unexplained delay gives rise to a reasonable and legitimate doubt as to the truthfulness and spontaneity of the prosecution story

and even creates suspicion regarding whether the alleged incidents occurred in the manner claimed. The chronology of events — two separate assaults on 20.05.1991, the lodging of the FIR on 21.05.1991, and its presentation before the Magistrate on 24.05.1991 — dilutes the evidentiary value of the FIR and makes it difficult to treat it as a reliable and contemporaneous account of the events.

- 38.** Hence, the unexplained delay both in the lodging of the FIR and its forwarding to the Magistrate seriously affects the probative value of the prosecution case, and this omission cannot be brushed aside as a mere procedural irregularity. It goes to the core of the prosecution's reliability, rendering the entire narrative doubtful and inviting the benefit of doubt in favour of the accused.
- 39.** In the case of *Mostafa Sk. (supra)*, the Hon'ble Division Bench of this Court had categorically held that under the mandate of Section 157 of the Code of Criminal Procedure, it is the statutory duty of the police to forthwith transmit a copy of the First Information Report (FIR) relating to any cognizable offence to the Court of the nearest Magistrate having jurisdiction over the case. The underlying purpose of this requirement is to ensure prompt judicial oversight over the initiation of criminal proceedings and to prevent any possibility of fabrication, manipulation, or interpolation in the FIR after its

registration. The Division Bench has further held that if there is any delay either in the lodging of the FIR or in its forwarding to the Magistrate, such delay must be satisfactorily and properly explained by the prosecution. In the absence of such explanation, the credibility of the prosecution version becomes doubtful, as the delay creates room for suspicion regarding the genuineness and spontaneity of the FIR.

40. Applying the said principle to the present case, it is evident that there exists an unexplained delay both in the lodging of the FIR and in its placement before the learned Magistrate. As per the prosecution, the alleged incident occurred on 20.05.1991 between 3:00 P.M. and 6:00 P.M., whereas the FIR was lodged only on the following day, i.e., 21.05.1991 at 16:45 hours (4:45 P.M.). Moreover, the records further reveal that the FIR was seen by the learned Sub-Divisional Judicial Magistrate (S.D.J.M.) only on 24.05.1991, which is four days after the alleged occurrence and three days after the registration of the FIR. Such delay, both in the filing and in the forwarding of the FIR, has remained wholly unexplained by the prosecution.
41. In light of the ratio laid down in **Mostafa Sk. (supra)**, this lapse assumes significant importance. The delay, without a proper or convincing explanation, naturally gives rise to an inference that the FIR may not have been recorded at the time it purports to have been

lodged and that there might have been deliberate manipulation, fabrication, or embellishment in the narrative of the prosecution. The possibility of afterthought or reconstruction of facts cannot be ruled out when the FIR, which is meant to be the earliest version of the incident, is not promptly lodged and transmitted in accordance with law.

- 42.** Therefore, the unexplained delay in both the lodging and forwarding of the FIR has weakened the prosecution story, casting a serious shadow of doubt over the alleged incident—whether it actually occurred in the manner, at the time, and at the place claimed by the prosecution. This delay, being inconsistent with the statutory requirement under Section 157 of the Cr.P.C. and the judicial principles laid down in ***Mostafa Sk. (supra)***, goes to the root of the prosecution case, impairing its credibility and reliability in the eyes of law.
- 43.** As I have already stated that as per FIR there are two distinct incidents which were allegedly have taken place on 20.05.1991. The first incident happened at about 3 PM which allegedly occurred a few distance away from the police booth of Chamarbandh, at the second incident happened at about 6 P.M. at Chamarbandh.
- 44.** PW1, Amir Shit stated that on 20.05.1991 at about 3 P.M. he was coming out from the polling booth after casting vote and he was

sitting after casting his vote near the polling booth, the accused Rengta Hansda and Bir Hansda along with about 30/40 other persons armed with lathi came to the spot and accused Rengta assaulted this witness with lathi on his back and as such he was misbalanced. So, this is the first incident as stated by this witness. The second incident was happened at about 6 P.M. at Chamarbandh as clarified by PW1 in his cross-examination wherein he stated the place of occurrence is at a distance of one kilometre from village Chamarbandh and jungle is situated on both sides of the road which runs from village Chamarbandh to Gopiballavpur.

- 45.** In the present case, while framing the charge under Section 326 read with Section 34 of the Indian Penal Code, the learned Trial Court failed to specify the exact place of occurrence and the time of occurrence. Instead, the charge only mentions that the offence falls within the jurisdiction of “Narayangarh Police Station,” which, as per the record, is located approximately 40 kilometres away from the actual place where the alleged incident is said to have occurred. Such an error or omission is not a mere formality; it carries serious implications, as it confuses the geographical location of the alleged offence and thereby creates doubt regarding the authenticity and accuracy of the charge itself. The failure to mention the true place and time of occurrence has deprived the accused of a clear

understanding of the allegations he is required to meet, thereby prejudicing his right to a fair opportunity of defence.

- 46.** Similarly, the charges framed under Section 307 read with Section 34 IPC and Section 323 read with Section 34 IPC also suffer from the same infirmity. In both these charges, instead of clearly stating the date, time, and place of occurrence, the learned Trial Court has merely used the vague expressions “on the same day” and “at the same place.” This manner of framing the charge is wholly unsatisfactory and misleading, particularly when, as per the prosecution’s own case, there were two separate incidents that occurred at two different places. Therefore, the use of generic terms such as “same day” and “same place” is not only incorrect but also contradictory to the version advanced by the prosecution itself.
- 47.** Such vagueness and lack of precision in framing of charges cannot be treated as a mere procedural irregularity curable under the law; rather, it goes to the root of a fair trial. The accused, being unaware of the exact circumstances and particulars of the allegations, is handicapped in presenting an effective defence or cross-examining the witnesses on specific points of time and place. The learned Trial Court, by failing to set out the necessary particulars, effectively deprived the appellant of his right to know the precise nature of the accusation against him.

- 48.** A charge must be framed in such a clear and specific manner as to leave no ambiguity about the offence alleged. The purpose of framing a charge is not only to inform the accused of the allegations but also to define the scope of the trial, so that the defence can be directed to meeting the specific case of the prosecution. When the charge is framed in vague and ambiguous terms, as in the present case, it results in serious prejudice to the accused, because he cannot effectively challenge the prosecution's evidence or direct his cross-examination to discredit the particular facts alleged.
- 49.** In the instant case, the use of general and indistinct expressions like "same day" and "same place" in a situation involving two different incidents occurring at two separate locations has created substantial ambiguity in the prosecution story. It casts doubt on the correctness and reliability of the charges framed and undermines the fairness of the entire trial process. Therefore, the defective framing of charges, coupled with the omission to specify the crucial particulars of time and place, constitutes a material irregularity that has caused serious prejudice to the defence and has ultimately vitiated the trial.
- 50.** Accordingly, the contention advanced on behalf of the appellant that the charges were not framed in accordance with the provisions of Section 212(1) of the Code of Criminal Procedure stands well-founded. The failure of the learned Trial Court to mention the

essential particulars regarding date, time, and place of occurrence has rendered the charges vague and unsustainable in law, thereby affecting the very foundation of the conviction recorded against the appellant.

51. In the case of ***Ismaile Seikh (supra)***, the Hon'ble Division Bench of this Court categorically held that the charges framed by the learned Trial Court were not in accordance with law, as they failed to specify the time and place of occurrence, which are mandatory particulars required to be mentioned under Section 212(1) of the Code of Criminal Procedure. The Court further observed that such omission is not a mere technical defect but a serious procedural irregularity that directly results in failure of justice and consequently vitiates the entire trial.
52. The Division Bench emphasized that Section 212(1) Cr.P.C. lays down an important safeguard for the accused, ensuring that every charge must contain clear particulars regarding the time, place, and nature of the alleged offence, so that the accused is fully informed of the allegations against him and can prepare his defence accordingly. The non-mentioning of these crucial particulars deprives the accused of the opportunity to understand the exact nature of the case he is required to meet, thereby infringing upon his fundamental right to a fair trial as guaranteed under the law.

- 53.** In the light of the said decision, it is evident that in the present case, the non-compliance with the mandatory requirements of Section 212(1) Cr.P.C. by the Trial Court has similarly vitiated the very foundation of the trial. The charges framed lack the required specificity, clarity, and precision, and therefore, cannot be said to have conveyed to the appellant the precise nature of the accusations levelled against him. This defect has caused substantial prejudice to the appellant's right to defend him effectively, as he was not made aware of the exact time, place, and circumstances under which the alleged offences were said to have been committed.
- 54.** In the present case, P.W.1 Amit Shit, one of the injured persons, has stated in his evidence that after the alleged incident, he informed about the occurrence to Sukumar Giri (P.W.3), Sunil Das, and others. He further deposed that the First Information Report (FIR) was written by Ranjit Das as per his instruction and in his presence. However, a significant lapse on the part of the prosecution is that neither Sunil Das, who was allegedly informed immediately after the occurrence, nor Ranjit Das, the person who wrote the FIR, were cited as witnesses by the prosecution. This omission is a serious one, as both these individuals could have been material witnesses to corroborate the version of P.W.1 regarding the lodging of the FIR and the circumstances under which it was prepared. The non-

examination of such important witnesses casts doubt on the authenticity of the prosecution story and the genuineness of the FIR.

55. Furthermore, P.W.1 himself admitted in his deposition that he was a member of the CPI(M) Party, while the accused Rengta belonged to the Jharkhand Party. This admission directly points to a background of political rivalry between the complainant's side and the accused persons. The political divide is further confirmed by P.W.2 Barun Jana, who stated that he was sitting in the booth camp of the CPI(M) Party at the relevant time and that he is a supporter of that party. Likewise, P.W.7 Purna Chandra De deposed that the accused persons were members of the Jharkhand Party. Thus, from the testimonies of P.W.1, P.W.2, and P.W.7, it clearly emerges that the parties in this case belonged to opposing political groups and that there was pre-existing animosity and factional disputes between them in the locality.

56. In such a scenario, where political hostility forms the backdrop of the case, the benefit of doubt must necessarily go to the accused. The convictions based solely on the testimony of politically motivated or interested witnesses, without independent corroboration, are unsafe and contrary to the settled principles of criminal law. To convict the appellant in such circumstances would amount to a miscarriage of justice, as the prosecution's version is susceptible to being coloured

by political enmity and rivalry. Therefore, the existence of political rivalry, as reflected in the consistent depositions of P.W.1, P.W.2, and P.W.7, significantly weakens the prosecution's case. It renders the possibility of false implication not only plausible but also probable. This background of factional dispute and mutual hostility between the complainant and the accused parties creates a strong and reasonable doubt about the veracity of the prosecution's story, and such doubt must, in accordance with the cardinal principle of criminal law, be resolved in favour of the accused.

- 57.** In the present case, P.W.3, Sukumar Giri, who is a witness to the first alleged incident and a hearsay witness concerning the second incident, has made significant statements in his deposition which call for close scrutiny. He has deposed that at the time of the second alleged occurrence, a police vehicle engaged in polling duty happened to be returning through the area. According to his testimony, the said police jeep was stopped, and the injured Subrata was lifted into the vehicle by the police personnel, after which he was taken to Gopiballavpur B.P.H.C. (Block Primary Health Centre) for medical treatment.
- 58.** As per the version of P.W.3, the individuals who allegedly sustained injuries in the second part of the incident were thus shifted by the police officials themselves in their jeep for the purpose of medical aid.

However, this part of his statement, when examined in light of normal human conduct and the duties of police officers, appears inherently improbable and artificial. It is indeed astonishing that, according to the witness, the police personnel were present at or near the scene of occurrence, yet they did not make any attempt to apprehend or even identify the alleged assailants who were purportedly committing the assault in their presence.

- 59.** Such a course of conduct on the part of the police, as described by P.W.3, is wholly contrary to the ordinary and expected behaviour of police officials. It is a matter of common sense and established duty that any police officer witnessing an ongoing act of assault would be expected to intervene, restrain the attackers, or at the very least, attempt to apprehend them immediately. The alleged complete inaction of the police personnel, therefore, renders the version of P.W.3 highly doubtful. It is unnatural, inconsistent with human behaviour, and contradicts the normal course of official duty expected from law enforcement officers.
- 60.** This unexplained inaction on the part of the police, coupled with the prosecution's failure to examine or even identify those police personnel who were allegedly present, creates a grave lacuna in the evidentiary chain. The said police officials would have been the most natural, independent, and reliable witnesses to the alleged second

incident. Their testimony could have provided direct corroboration to the versions of P.W.3 and P.W.7 and lent credibility to the prosecution's narrative, had the events truly occurred in the manner alleged. However, the prosecution neither cited them as witnesses nor offered any explanation for such an omission. This deliberate avoidance gives rise to an adverse inference that, had those police personnel been examined, their evidence might have contradicted or undermined the prosecution's case.

- 61.** Furthermore, the narrative presented by P.W.3 and P.W.7 suffers from material inconsistencies and inherent improbabilities. Their accounts, when read together, fail to establish a coherent sequence of events regarding the second incident. The improbability of police officials remaining passive spectators to an assault, while simultaneously assisting in the transportation of injured persons, makes their story suspect. Such inconsistencies go to the root of the prosecution's version and severely diminish its credibility.
- 62.** In addition, the Investigating Officer in this case appears to have made several significant omissions in the course of investigation relating to the second incident. No effort was made to record the statements of the police personnel present in the jeep, no seizure of the vehicle was reported, and no contemporaneous documentation, such as entries from the general diary or duty register, was produced

to corroborate the alleged movement of the police jeep. These investigative lapses further weaken the evidentiary foundation of the prosecution case and raise serious doubt about the truthfulness and genuineness of the alleged second occurrence.

- 63.** Therefore, the version advanced by P.W.3 regarding the second incident does not inspire confidence. The inherent improbability, absence of corroboration from independent witnesses, and failure of the prosecution to examine crucial police witnesses collectively cast a serious shadow of doubt on the authenticity of the prosecution story. These deficiencies, taken together, render the account of the second alleged incident unreliable and unworthy of credence, thereby substantially weakening the overall prosecution case.
- 64.** PW7, Purna Chandra Dey, though admittedly not an eyewitness to the actual occurrence, has narrated certain facts which he claims to have observed immediately before and after the alleged incident. According to his testimony, while he was in the vicinity of the place of occurrence, he noticed two persons emerging from the jungle, one holding a *lathi* and the other armed with a *bow and arrow*. Upon witnessing this scene, he became frightened and immediately fled the spot. In his further deposition, PW7 stated that the appellant Rengta had assaulted Subrata with a *tangi* on his helmet, and due to the force of the blow, the *tangi* broke into two parts — one piece falling

on the ground while the other remained in the appellant's hand. This version of PW7 seeks to corroborate the account of PW4 and PW5 with regard to the alleged assault and the breaking of the weapon. However, it is noteworthy that PW7 himself was not present at the exact moment of the assault, and his statement appears to be based on what he heard or inferred later, rather than on direct observation.

- 65.** PW7 further deposed that after the incident, he carried the injured Amir on a bicycle to the house of Subrata Giri, and from there, Amir was reportedly taken to Gopiballavpur B.P.H.C. on a motorcycle for treatment. However, a significant omission exists in the prosecution case, inasmuch as no medical document or treatment paper pertaining to Amir's treatment at Gopiballavpur B.P.H.C. has been produced or seized by the Investigating Officer. This omission is crucial, as the medical record would have been a key corroborative piece of evidence to establish the nature, extent, and timing of the injuries allegedly sustained by Amir.
- 66.** Therefore, while PW7's testimony attempts to support the prosecution version, his status as a non-eyewitness, coupled with the absence of medical evidence or documentation to substantiate his claims, considerably diminishes the evidentiary value of his statement. The failure of the prosecution to produce even basic corroborative medical records further weakens the credibility of this

part of the prosecution case and raises doubt as to the authenticity of the events as narrated by this witness.

- 67.** In his deposition, PW4, Gora Chand Mandi, has categorically stated that the appellant Rengta had assaulted Subrata with a *tangi* on his helmet. He further clarified that due to the impact of the blow, the *tangi* broke into two pieces — one portion fell on the ground while the remaining part remained in the hand of the appellant. This piece of evidence is significant as it purports to describe the immediate sequence of assault and the condition of the weapon used, thereby linking the accused with the alleged act. However, this version is to be examined in the light of corroborative materials or the lack thereof, such as the non-seizure of the *tangi* or the broken pieces by the Investigating Officer.
- 68.** PW5, Subrata Giri, who himself is the injured witness of the second incident, has given a somewhat detailed account of the same occurrence. According to his testimony, he attempted to restrain the appellant Rengta, whereupon the appellant attacked him with a *tangi* on his head. At that time, PW5 was wearing a helmet, and the *tangi* struck the helmet with such force that its handle broke and fell to the ground. This witness further narrated that when the appellant Rengta tried to retrieve the blade portion of the broken *tangi*, PW5 attempted to escape from the spot. It was then, according to him,

that another accused, Srikanta Dandapat, appeared with a bow and arrow, aiming directly at him. PW5 stated that he managed to grab the *chhila* (string) of the bow, causing it to break, but immediately thereafter, the appellant Rengta attacked him again with the *tangi*, this time striking his left wrist joint, causing a bleeding injury.

69. He went on to depose that as a result of these repeated blows, he fell on the ground and was allegedly dragged towards the jungle, where he was further assaulted with the *tangi* on various parts of his body by the appellant. While this narration attempts to establish a continuous sequence of violent acts allegedly committed by the appellant, the absence of corroborative physical evidence, such as the recovery of the broken *tangi*, the helmet, or any bloodstained earth from the place of occurrence, casts a shadow of doubt over the veracity and consistency of this account. Nevertheless, PW5's testimony, being that of an injured witness, holds material value, but it must be scrutinized with care, especially when significant investigative lapses exist in the form of non-seizure of the weapon, lack of sketch map, and absence of medical corroboration from the concerned hospital.

70. Thus, while both PW4 and PW5 have attempted to substantiate the prosecution case by narrating the same sequence of events, the internal improbabilities and missing corroborative evidence weaken

the overall reliability of their version and make the prosecution story appear doubtful and incomplete.

- 71.** It is evident from the record that no offending weapon, such as the tangi, bow, or arrow, which was allegedly used at the time of the commission of the offence, was ever recovered or seized from the place of occurrence by the Investigating Officer. This omission assumes great significance because, according to the prosecution, these very weapons were instrumental in causing injuries to the victims. The absence of such crucial material evidence renders it extremely difficult to establish a direct nexus between the accused and the alleged act of assault. In cases where the prosecution alleges the use of specific weapons in the commission of a crime, recovery of those weapons or at least some corroborative evidence of their use is essential to lend credibility and authenticity to the prosecution version. The non-recovery of the alleged weapons creates a serious gap in the chain of evidence and weakens the prosecution's attempt to prove the accused's involvement beyond reasonable doubt.
- 72.** Further, the prosecution has claimed that the incident involved physical assault near a motorbike, and that the victim was allegedly attacked at or near that spot. However, the Investigating Officer failed to seize any motorbike, broken parts thereof, or even a damaged helmet from the scene of occurrence. In cases involving alleged

assault near or upon a vehicle, such objects, if found, serve as vital corroborative evidence to establish the place and nature of the incident. The presence of a damaged motorbike, broken helmet, or any other sign of struggle at the location could have provided tangible support to the prosecution story and confirmed that a violent altercation indeed took place there. The complete absence of such material objects, despite the detailed allegations, casts serious doubt on the prosecution narrative and suggests that the story may not have unfolded in the manner claimed.

- 73.** Moreover, it is equally important to note that the Investigating Officer did not seize any sample of blood stained earth from the alleged place of occurrence. In a case involving physical assault where injuries are alleged, recovery of blood-stained or disturbed earth from the spot often serves as an important piece of scientific and circumstantial evidence. It helps to confirm that the alleged incident took place at the claimed location and corroborates the statements of witnesses. The failure to collect even such basic physical evidence indicates a serious lapse and lack of diligence in the investigation.
- 74.** Such omissions suggest that the place of occurrence was neither properly identified nor verified during investigation. This failure goes to the root of the prosecution's case, as it creates reasonable doubt about whether the alleged incident actually took place at the stated

location or whether the prosecution story was reconstructed later to suit its narrative. The absence of any weapon of offence, corroborative objects, or physical evidence from the alleged scene of crime not only weakens the prosecution's version but also significantly undermines the credibility of the investigation.

75. In criminal jurisprudence, it is well settled that while direct evidence may sometimes suffice to sustain a conviction, the failure to produce material corroborative evidence, especially when it is available and expected—casts serious doubt on the truthfulness of the prosecution story. Here, the non-recovery of the alleged weapons (tangi, bow, arrow), coupled with the absence of any seized motorbike, helmet, or earth sample, leaves the prosecution case unsupported by any tangible evidence. This deficiency, taken together with the other investigative lapses, severely affects the probative value of the prosecution's case and makes it unsafe to hold the accused guilty of the alleged offence.

76. Similar to the testimony of PW3, PW7 has also stated in his evidence that he found Gora Chand lying on the ground in an unconscious and injured condition, and that he was thereafter taken to Gopiballavpur B.P.H.C. in a police jeep. However, as already observed, no police personnel or the driver of the said jeep, who would have been the most natural and crucial witnesses were

examined by the prosecution during the trial. This omission is not a mere procedural irregularity but a fatal defect in the prosecution case, as the presence of police personnel at the scene of occurrence is not a trivial or peripheral matter; rather, it goes directly to the core of the prosecution story. If, as alleged, the police officials were indeed present at or near the place of occurrence, witnessed the injured persons being taken in their own vehicle, and had firsthand knowledge of the situation, it is inconceivable and unnatural that they would neither intervene to prevent the assault, nor take any immediate steps to apprehend the alleged assailants, nor report the incident to their superior officers. Their complete inaction, as well as the failure of the prosecution to examine them as witnesses, therefore casts serious doubt on the veracity of the version presented by PW3 and PW7.

- 77.** The non-examination of these key witnesses creates a significant gap in the chain of evidence and raises the reasonable inference that, had such witnesses been examined, their testimony might not have supported the prosecution's version of events. This deliberate omission by the Investigating Officer not only reflects defective investigation but also undermines the credibility of the entire case, especially when the alleged presence of police personnel forms a central element of the narrative.

- 78.** Furthermore, PW8, Kali Charan Singha, is admittedly not a direct witness to the alleged assault by the appellant. His testimony is purely hearsay in nature, as he stated that he only heard about the occurrence from others. PW8 further deposed that he saw a police jeep arriving, and that the injured person was lifted into the jeep and taken to Gopiballavpur B.P.H.C. He also claimed that at the hospital, Gora Chand allegedly told him that he had been assaulted by the appellant along with others.
- 79.** However, this statement of PW8, being hearsay and uncorroborated, cannot be accorded any substantive evidentiary value under the settled principles of law. It merely repeats what he allegedly heard from the injured and lacks any independent verification. His testimony, therefore, adds no strength to the prosecution case and instead exposes its fragility, as none of the independent or official witnesses, particularly the police officers or the jeep driver—were brought before the Court to confirm even the basic facts surrounding the alleged assault or transportation of the injured.
- 80.** In totality, the failure to examine the police personnel who were allegedly present at the scene and the reliance on hearsay evidence from witnesses like PW8 renders the prosecution story highly doubtful and unreliable. Such omissions strike at the root of the case, suggesting that the events may not have transpired in the

manner alleged, and thus the benefit of doubt must necessarily go to the accused.

81. PW2, Barun Jana, who is an eye-witness to the first alleged incident and only a hearsay witness to the second, has deposed that the injured Amit Shit was immediately taken to the hospital as he was bleeding and experiencing pain due to the injuries sustained. However, this assertion finds no corroboration from PW1, Amit Shit himself, who, despite being the injured and the most competent person to speak about his physical condition and subsequent medical treatment, has not stated anywhere in his evidence that he was taken to any hospital for treatment immediately after the incident or that he suffered bleeding injuries as claimed by PW2. This inconsistency between the testimonies of PW1 and PW2 is material in nature and casts serious doubt on the credibility of the prosecution's version regarding the extent of injuries and the sequence of events that allegedly followed the first incident.

82. Similarly, PW5, who is one of the injured persons in respect of the second alleged incident, stated in his evidence that he was not examined by any doctor or treated at any hospital other than NRS Medical College and Hospital. However, the prosecution has failed to examine any doctor from NRS Medical College and Hospital, nor has it produced or proved any medical document or injury report from

that institution to substantiate this claim. The absence of such critical medical evidence, which could have provided independent corroboration of the injuries sustained and the nature of assault, seriously weakens the prosecution's case and raises doubt as to whether PW5 had actually been treated there as alleged.

- 83.** Further, PW11, the Investigating Officer (I.O.), has admitted in his cross-examination that he did not collect any medical report from any hospital other than Jhargram and Gopiballavpur B.P.H.C. This categorical admission demonstrates a serious lapse in the investigation, as the I.O. failed to verify or collect medical evidence from NRS Medical College and Hospital, which was allegedly the place where one of the injured was treated. Such an omission creates a significant evidentiary gap and undermines the credibility of the entire prosecution case regarding the alleged assault and resultant injuries.
- 84.** The contradictions between witnesses, coupled with the absence of essential medical evidence and the deficient investigation in failing to collect corroborative medical records, collectively render the prosecution story highly doubtful. In a case resting substantially on oral testimony, the absence of reliable documentary evidence such as medical certificates or injury reports assumes great significance and

strikes at the root of the prosecution's version, thereby entitling the accused to the benefit of doubt.

- 85.** It is contended by the learned Advocate for the appellant that the Investigating Officer (I.O.) failed to prepare any sketch map of the place of occurrence, which is a fundamental and indispensable part of any criminal investigation. The preparation of a sketch map serves as an objective visual aid to demonstrate the exact location, layout, and surrounding circumstances of the alleged scene of offence. It enables the Court to comprehend the spatial relationship between various places and objects mentioned in the evidence, and thereby assess the probability and consistency of the prosecution version.
- 86.** The non-preparation of a sketch map, therefore, is not a mere technical or procedural lapse, it goes to the root of the investigation. In the absence of a sketch map, the Court is left entirely dependent on oral testimonies, which, as in this case, are riddled with inconsistencies and contradictions. A properly drawn sketch map could have clarified the relative positions of the parties involved, the direction of movement, and the proximity of the witnesses to the scene, thereby lending credibility to the statements made. Without it, the geographical setting of the occurrence remains vague and uncertain, giving rise to serious doubts about the truthfulness and reliability of the prosecution's case.

- 87.** The learned Advocate for the appellant has rightly pointed out that such an omission casts grave suspicion on the authenticity and genuineness of the prosecution version. It raises the legitimate question as to whether the incident occurred at all in the manner alleged or even at the place claimed by the prosecution. When the investigation lacks even the most basic evidentiary documentation, such as a sketch map, it indicates either a careless and perfunctory investigation or, worse, the possibility that the place of occurrence was never properly identified or verified.
- 88.** In a case like the present one, where the prosecution relies heavily on oral evidence and where there are already inconsistencies in the witnesses' depositions regarding time, place, and sequence of events, the failure of the Investigating Officer to prepare a sketch map assumes particular significance. It severely weakens the evidentiary foundation of the prosecution and makes the entire narrative highly doubtful and untrustworthy. Thus, this serious investigative lapse not only affects the credibility of the prosecution story but also undermines the fairness and integrity of the entire criminal proceeding.
- 89.** In the present case, it is apparent from the record that the examination of the accused under Section 313 of the Code of Criminal Procedure was not conducted in the manner mandated by

law. The purpose of such examination is to afford the accused an opportunity to personally explain any incriminating circumstance appearing in the evidence against him. It is a vital safeguard provided by the criminal justice system to ensure that the accused is not condemned unheard and that he fully comprehends the case sought to be made against him. However, in the instant case, this fundamental requirement appears to have been observed more in form than in substance, thereby causing serious prejudice to the appellant. It is seen that Question Nos. 2 and 3 framed by the learned Trial Court during the Section 313 examination were compounded and omnibus in nature, each containing multiple circumstances clubbed together. Such a manner of questioning is contrary to the express object of Section 313, Cr.P.C., which requires that each incriminating circumstance must be put separately and distinctly to the accused so that he may have a fair and intelligible opportunity to offer his explanation. When several circumstances are combined into a single question, it becomes difficult for the accused to understand which specific fact or piece of evidence he is required to answer or explain. Consequently, the answers furnished lose their evidentiary value and the very purpose of the examination stands defeated.

- 90.** By framing multiple circumstances in a single question, the Trial Court effectively disabled the appellant from giving a meaningful and coherent response. The accused, being an ordinary person and not legally trained, could not reasonably be expected to disentangle several complex facts or evidentiary aspects combined into one query. This procedural lapse strikes at the root of a fair trial and vitiates the reliability of the Section 313 statement as a whole.
- 91.** Further, it is equally significant that the Trial Court failed to put to the appellant the material circumstances emanating from the testimonies of PW9 and PW10, who were the treating doctors and whose medical evidence was relied upon by the prosecution. The omission to confront the accused with such vital medical circumstances deprived him of an essential opportunity to explain or rebut those facts. It is a settled principle of law that every incriminating circumstance appearing in the prosecution evidence must be specifically put to the accused, and if not done, the same cannot be used against him. The failure of the Court to draw the appellant's attention to the evidence of the medical witnesses (PW9 and PW10) is therefore a serious procedural irregularity, which caused immense prejudice to the defence.
- 92.** In the present case, the casual and improper manner in which the Section 313 examination was conducted has seriously undermined

the fairness of the trial. The combined questions containing multiple incriminating circumstances and the failure to confront the accused with vital medical evidence together constitute a violation of the procedural safeguard enshrined under Section 313, Cr.P.C. The consequence of such omission is that the appellant was denied a fair opportunity of defence, resulting in grave prejudice. Accordingly, the improper and defective examination of the accused under Section 313 Cr.P.C. vitiates the trial to a significant extent, and the benefit of such lapses must necessarily enure to the appellant, as the same goes to the very foundation of a just and fair adjudication.

93. In **Sukjit Singh (supra)** the Hon'ble Apex Court held that in paragraph 13, inter alia, that:

"13. The aforesaid principle has been reiterated in Ajay Singh-vs- State of Maharashtra in following terms: (SCC pp. 347-48, para14)

14. The word 'generally' in sub-section (1)(b) does not limit the nature of the questioning to one or more questions of a general nature relating to the case, but it means that the question should relate to the whole case generally and should also be limited to any particular part or parts of it. the question must be framed in such a way as to enable the accused to know what he is to explain, what are the circumstances which are

against him and for which an explanation is needed. The whole object of the section is to afford the accused a fair and proper opportunity of explaining circumstances which appear against him and that the questions must be fair and must be couched in a form which an ignorant or illiterate person will be able to appreciate and understand. A conviction based on the accused's failure to explain what he was never asked to explain is bad in law. The whole object of enacting Section 313 of the Code was that the attention of the accused should be drawn to the specific points in the charge and in the evidence on which the prosecution claims that the case is made out against the accused so that he may be able to give such explanation as he desires to give."

- 94.** In the said judgment, the Hon'ble Apex Court categorically observed that there can be no scintilla of doubt that where the requisite and material questions are not put to the accused during his examination under Section 313 of the Code of Criminal Procedure, it results in serious prejudice to the accused. Such omission assumes even greater significance when there is no independent or cogent evidence on record to conclusively establish the accused's involvement in the alleged offence.

- 95.** In the present case, the examination of the accused under Section 313, Cr.P.C. was not carried out in the proper and lawful manner contemplated by the provision. The questions framed by the Trial Court were vague, incomplete, or lacking in specificity, and thus failed to bring to the notice of the accused each of the incriminating circumstances that had emerged from the prosecution evidence. This procedural lapse deprived the appellant of an effective opportunity to offer a rational and complete explanation to the allegations made against him.
- 96.** The very purpose of Section 313, Cr.P.C. is to enable the accused to personally explain every circumstance appearing in evidence so that no conviction is founded without giving him a fair chance to meet the case of the prosecution. However, in this case, that salutary safeguard was rendered illusory. The failure of the Trial Court to properly question the accused on all material aspects of the case has, therefore, caused substantial prejudice to him and has undermined the fairness of the trial.
- 97.** Consequently, in light of the principle laid down by the Hon'ble Supreme Court, it must be held that the defective and perfunctory examination under Section 313, Cr.P.C. in the present case has vitiated the integrity of the proceedings, as the appellant was denied

a full and fair opportunity to explain the incriminating evidence appearing against him.

- 98.** In light of the foregoing discussion and upon a careful consideration of the evidence and materials on record, it becomes apparent that the impugned judgment and order of conviction suffer from serious legal infirmities and material irregularities. The findings of the learned Trial Court appear to have been rendered without proper appreciation of evidence and in disregard of established legal principles governing criminal trials. The cumulative effect of the procedural lapses, evidentiary inconsistencies, and investigative deficiencies discussed hereinabove has vitiated the fairness of the trial and undermined the credibility of the prosecution case. Consequently, the judgment under challenge cannot be said to be based on sound reasoning or lawful appreciation of the facts and evidence brought before the Court.
- 99.** Therefore, I am constrained to hold that the conviction and sentence imposed by the learned Trial Court are unsustainable in law. The same, having been rendered in violation of procedural safeguards and without due compliance with the mandatory provisions of law, deserve to be set aside in the interest of justice.
- 100.** Thus, the instant appeal be and the same is hereby **allowed**.

- 101.** The impugned judgment and order of conviction passed by the learned Trial Court dated 22.02.1996 in connection with Sessions Trial No. XVI of September, 1994 is hereby set aside.
- 102.** The appellant is on bail. He is to be discharged from the respective bail bonds and set at liberty if he is not wanted in connection with other case.
- 103.** In accordance with the mandate of Section 437A of the Code of Criminal Procedure (corresponding to Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the appellant is required to furnish bail bonds along with suitable sureties, which shall remain valid and operative for a period of six months from the date of execution.
- 104.** Let a copy of this judgment allowed with the Trial Court Record be send down to the Trial Court immediately.
- 105.** Urgent Photostat Certified Copy of the order, if applied for, be given to the parties upon complying with all legal formalities.

(Prasenjit Biswas, J.)