

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

PRESENT:

The Hon'ble Justice Apurba Sinha Ray

GA 10 of 1991
The State of West Bengal
Vs.
Biswarup Saw Mill & Ors.

For the State : Mr. Debasish Roy, Ld. P.P.
: Ms. Zareen N. Khan, Adv.

Heard On : 11.06.2025

Judgment Delivered On : 18.06.2025

Apurba Sinha Ray, J. :-

1. The instant appeal has been filed against the order dated 27.06.1991 passed by the Learned Court of Sub-Divisional Judicial Magistrate, Durgapur, in connection with case no. C.R. 276 of 1990 under section 33(1) of Indian Forest Act.

2. The respondents have filed a petition dated 15.02.1991, praying for an order of acquittal under the provision mentioned in Section 468 of Cr.P.C.

3. The Learned Sub-Divisional Judicial Magistrate in his order referred to the provisions of Section 468(1) of Cr.P.C. The spirit of this provision is that the

prosecution is to file a case within the prescribed period of one year. This instant case was filed under section 33(1) of Indian Forest Act, 1927 where the punishment is imprisonment for a term which may extend up to six months, or fine which may extend up to Rs. 500/-, or with both.

4. The alleged offence took place on 07.07.1989 at about 11 a.m. and the present case was filed on 14.11.1990, i.e., after expiry of one year. Thus, the case is barred by the limitation and the accused persons are acquitted from the instant case.

5. The said order dated 27.06.1991 was challenged in this appeal. In spite of service, the respondents remained unrepresented and as such, the matter is taken up for disposal on its merits.

6. I have gone through the materials on record. Section 468 of Cr.P.C is quoted herein below:

“(1) No court shall take cognizance of offence of the category specified in sub-section 2 after expiry of the period of limitation.

(2) The period of limitation shall be –

a) Six months where offence is punishable with fine only,

b) One year for offence punishable with imprisonment for a term not exceeding one year.”

7. The State has preferred this appeal on 13.09.1991, challenging the said order of acquittal. In spite of service, the respondents remained unrepresented and as such, the matter is taken up for disposal on its merits.

8. In my view, it will not prejudice the respondents even if the service is dispensed with after taking into consideration all materials available on the record.

9. I 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.

10. This court, however, is not convinced with the arguments advanced on behalf of the State since, according to me, the order of acquittal has been recorded by the Learned Trial Judge upon consideration of all the materials placed before him including the provisions of section 468 of Cr.P.C.

11. 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, I do not think there is any scope for interference by this Hon'ble Court as the impugned order dated 27.06.1991 seems to be justified and reasonable.

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

(APURBA SINHA RAY, J.)