

**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 04 of 1994
The State of West Bengal
Vs.
Jiten Ghosh & Ors.**

For the State : Mr. Debasish Roy, Ld. P.P.
: Mr. Parthapratim Das, Adv.
: Z.N. Khan, Adv.

Heard On : 02.07.2025

Judgment Delivered On : 02.07.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that on 14.08.1985 at about 8.30 p.m, Kaliakanta Ghosh heard a groaning sound from the house of accused, Jiten Ghosh, adjacent to his house. He came out on the road with torch and in the light of torch he found that accused persons, i.e., Jiten Ghosh, Sukhen Ghosh and their mother, Renubala Ghosh were fleeing away from their house. The accused Jiten and Sukhen had weapon in their hands. Kaliakanta Ghosh caught Renubala Ghosh and raised alarm and some residents of the village, Durlavpur, Nadia came to the place of occurrence. When villagers tried to

inquire and attempted to open the door of accused person's house, Renubala Ghosh tried to stop them. Somehow, the villagers opened the door and found Aparna Ghosh, w/o accused Sukhen Ghosh is bleeding condition and she was lying dead inside the room and a smell of poison was coming from that room.

2. After the incident, Kaliakanta Ghosh lodged an F.I.R to Karimpur Police Station, being no. 17 Dated 14.08.1985 under sections 302/34 of I.P.C. After investigation, charge-sheet was submitted under sections 302/34 of I.P.C and the case was committed to Second Court of Additional Sessions Judge, Nadia for trial and disposal. The prosecution has examined 21 witnesses and defense has examined 1 witness.

3. The Learned Court of Sessions Judge, Nadia found that in F.I.R Kaliakanta Ghosh (PW1) stated that he heard the sound of groaning coming out from accused's house and thereafter he came out on the road. But, in examination he deposed that he was on the road while heard the sound of groaning. He also stated in F.I.R that he tried to catch the accused Renubala while she tried to flee away but on oath he deposed that he hold the accused Renubala inside the house of the accused persons. On oath PW1 stated that in course of search in the house of accused, he found blurred marks of blood in the verandah of the house and on opening the door he saw the victim was lying dead on the floor. But, in F.I.R there was no reflection of blurred marks of blood in the verandah rather stated that the accused Renubala resisted him to open the door. It is hardly believable that Renubala, an old lady, could resist the PW1. PW3 deposed that they found the accused Renubala inside the house and she was lying on the mat. At that point of time she said that she did not know where her sons had gone. PW9 did not state anything about the weapon in the hands of accused persons. Thus, the statements of prosecution witnesses are contradictory with each other.

4. By judgment and order dated 08.04.1994, the accused persons, namely, Jiten Ghosh, Sukhen Ghosh, Ranubala Ghosh were found not guilty under sections 302/34 of I.P.C 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 07.11.1994. 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 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.)