

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 8 of 1994
The State of West Bengal
-Vs-
Lutfar Rahman & Ors.

For the State : Mr. Debasish Roy, Ld. PP
Ms. Zareen N. Khan
Ms. Manasi Roy

Heard on : 02.07.2025

Delivered on : 02.07.2025

Rajarshi Bharadwaj, J.:

1. The prosecution case, inter alia, is as follows:
2. That an F.I.R. was lodged by one Sk. Rajyan Ali of Village – Mundalika at Jangipara Police Station on 22.06.1993 at 3:30 p.m. alleging therein that the respondents along with others forming an unlawful assembly and being armed with deadly weapons like lathi, tangi, iron rods etc. attacked and murdered one Sk. Noor Ali @ Jhoka at about 1:00 p.m. on the same day while he was taking both in a pond near Bakultala in the said village.
3. That in all 13 accuseds were named in the F.I.R. along with these respondents and the prosecution examined 15 witnesses in this case amongst whom P.W.1, P.W.2 and P.W.3 are eye-witnesses and P.W.10 is the partial eye-

witness and the P.W.4 and P.W.5 are the witness to the conspiracy of the accused for murdering the victim.

4. That the learned Additional Sessions Judge convicted 9 out of 12 accuseds who faced the trial but acquitted other accused respondents on the ground of benefit of doubt misconstruing the evidence of P.W.10 who was aged about 12 years at the time of incident and a partial eye-witness with incident disregarding the evidences of P.W.1, P.W.2 and P.W.3 who were present at the place of occurrence at the relevant time of incident and saw the accused respondents to actively participate in the crime.

5. That after charges being framed under Section 302 read with Section 149 of the Indian Penal Code and also under Sections 201/34 of the Indian Penal Code, the prosecution examined 15 witnesses.

6. The Trial Court after compliance of necessary formalities, recorded an order of acquittal which is in challenge before this Hon'ble Court. In spite of service, the accused/respondents are unrepresented and as such, we propose to deal with the appeal on its merits.

7. Dispensing with the service upon the respondents as in our view, it will not be prejudicial in the interest of the respondents for the order 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 learned Trial Judge.

9. We are, however, not convinced with the arguments advanced on behalf of the State by the learned Public Prosecutor in view of the fact that 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 proposition 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.

11. Accordingly, the appeal fails and is dismissed.

12. Copy of this judgment along with the trial court records, if any, shall be sent back to the trial court at once for necessary compliance.

13. 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]