

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 15 of 2000
State of West Bengal
-Vs-

Roshid Alam @ Gobbar & Anr.

For the Respondent: Mr. Debasish Roy, Ld. P.P.
Mr. Partha Pratim Das

Heard on : 03.07.2025

Delivered on : 03.07.2025

Rajarshi Bharadwaj, J.:

1. The prosecution case, inter alia, is as follows:
2. That the accused persons/opposite parties were placed on trial after being charge-sheeted under Section 302 read with Section 34 of the Indian Penal Code who, however, pleaded not guilty and claimed to be tried.
3. That the accused persons along with the absconding accused Mehfuz Alam and others allegedly committed murder intentionally with the common intention of all of them and caused death to Mansur Alam on 07.09.1998 in front of Premises No.13, Collin Lane, Calcutta-16.
4. That the prosecution in order to confirming the charge leveled against the accused persons/opposite parties has examined twelve witnesses.

5. That P.W.1 Sri Adhip Banerjee, the official plan maker of that Detective Department deposed to the effect that he prepared a rough sketch map of the place in and around of 13A, Collin Street and thereafter he prepared another map according to scale. Then again he prepared six blue prints on the basis of the plan drawn by him to scale. He stated that he had not shown the place of occurrence in the final drawing of the map.

6. That P.W.2 Malla Sapiul Alam, the official photographer, Detective Department has stated in his evidence that he had taken five photographs as per the direction of Sub-inspector Jaysurja Mukherjee. He provides the photographs along with negatives. He further stated that on 08.09.1998 he had taken photographs of the dead body of Mansur Alam at N.R.S. Morgue being identified by Constable Kartick Chandra Dey.

7. That P.W.3 Shekh Shajhan was cross-examined by the prosecution under Section 154 of the Evidence Act. This witness sign or put his L.T.I. in his deposition.

8. That P.W.4 Dr. Soumitra Ray, in his evidence stated that he examines one Monsur Alam who was brought dead in the emergency room at 7:25 p.m. by S.I. Chandan Ray Mukherjee of Park Street Police Station. He further stated there was multiple gun-shot injuries over interior abdominal wall and back over head and face. He has also proved the report of injury prepared and signed by him. He further proved the certificate of death and his signature on the search list.

9. That P.W.5 Constable Kartick Chandra Dey stated in his evidence that on 08.09.1998 he identified the dead body of a person to the autopsy surgeon.

10. That P.W.6 Sub-inspector Pulok Kumar Dutta deposed to the effect that he held inquest over the dead body of Mansur Alam. He provides the inquest report which was prepared and signed by him.

11. That P.W.7 Sub-inspector Chandan Ray Mukherjee deposed to the effect that on 07.09.1998 at 6:40 p.m. he received an information that some incidents

had taken place at Collin Lane areas. Going over there he found that a man aged about 30-31 years lying on the ground in a pool of blood in front of 13, Collin Lane. He saw some bullet injuries on the person of that man. One lady namely Milifar Alam came there and told that her husband was shot by Gabbar, Khoka, Mehfooz and others.

12. That P.W.8 Dr. Siddhadhan Batabyal stated in his deposition that he held post-mortem over the dead body of Mansur Alam.

13. That P.W.9 Jamshed Alam was cross-examined under Section 154 of the Evidence Act.

14. That P.W.10 being an eye-witness deposed to the effect that he was standing at the place of occurrence and saw Mansur Alam being shot by five persons and at that time street-lights were on. Those five persons were Gabbar, Baccha Raju, Khoka, Bikhas and Mehfooz. He further stated in his evidence that Mehfooz was not present in the court and he identified Gabbar, Khoka, Bikhas and Baccha Raju in Court. P.W.10 gave a vivid description of the accused persons.

15. That P.W.11 Mahammad Nasim deposed to the effect that he worked as a tailor in the tailoring shop of Matiar Rahaman at 13A, Collin Lane. On 07.09.1998 when he was working at about 6:30 p.m. he heard somebody saying "Mar dia, Mar dia", when he came out of the shop room he found Gabbar, Khoka, Bikhas, Baccha Raju and Mehfooz were firing Mansur from gun.

16. That P.W.12 Jaysurja Mukherjee being the Investigating officer deposed at length to support the prosecution case.

17. That the petitioner most humbly submits that the prosecution case was proved beyond all reasonable doubt but the learned Trial Court by judgment and order dated 31.03.2000 acquitted the accused persons.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. Accordingly, the appeal fails and is dismissed.

24. 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.

25. 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]