

Form No. J(1)

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

Present :

**The Hon'ble Justice Rajasekhar Mantha
And
The Hon'ble Justice Rai Chattopadhyay**

**CRA 517 of 2015
With
I.A. No. CRAN 3 of 2021**

**Nayan Singh Sardar &Anr.
– Vs. –
The State of West Bengal**

For the Appellants: Mr. Partha Sarathi Bhattacharyya,
Mrs. Sukla Das Chandra,
Mr. Bhaskar Seth,
Ms. Swarnali Saha.

For the State: Mr. Debasish Roy, Ld. P.P.
Mr. Ranadeb Sengupta,
Ms. Rajnandini Das.

Heard on: 28.10.2025 and 06.11.2025.

Judgment on: November 6, 2025.

Rajasekhar Mantha, J.:

1. The instant appeal is directed against the judgment of conviction dated 8th July, 2015 and order of sentence dated 10th July, 2015 passed by the learned Additional Sessions Judge, Fast Track, Court No.2, Purulia in Sessions Trial No. 20 of 2012 arising out of Sessions Case No. 150 of 2012. By the said judgment, ten appellants have been convicted for life under Sections

144/148/149/341/506/302 read with Section 34 of the Indian Penal Code.

2. Ld Counsel for the appellants has informed upon placing reliance on two death certificates that the appellant no.7 and the appellant no.9, namely, Binod Singh Sardar and Anil Singh Sardar have died during the pendency of the instant appeal. The said respective death certificates filed in Court today are kept with the records.

PROSECUTION CASE:

3. The prosecution case in brief is that at the late night of 14th October, 2011, 21 persons belonging to Singh Sardar community and/or family brutally assaulted and killed two persons, namely, Joydeb @ Jabbar Bauri and Piya Singh Sardar, wife of Banamali Singh Sardar. The victims were in an illicit relationship. Both of them had spouses and children and resided in the same village i.e. Anandapur Baraghartala.
4. The evidence on record indicates that the male members of Bauri family on that fateful night left the village – Anandapur, Baraghartala for treatment of the son of one Manik Bauri. They took the ailing son to Manbazar Hospital. The appellants along with other 11 accused persons, seized the opportunity of the absence of male members in the village and killed the victims.
5. The victim Joydeb Bauri was already married to Chhaya Bauri (PW-21) and had two children with her. He however at the same time was in an

illicit relationship with the other victim Piya Singh Sardar. She was the wife of Banamali Singh Sardar.

6. The entire village objected to the said illicit affair of Joydeb and Piya. The victims thus were compelled to leave the village. Joydeb however used to visit his wife, Chhaya Bauri and often assaulted her. Unable to bear the torture, Chhaya Bauri left with her children for her father's place. She left on 13th October, 2011.
7. Joydeb with Piya came to the former's house after Chhaya left the house, as it was financially difficult for them to live outside their native village. Upon their arrival, at Anandapur Baraghartala, the villagers confronted Joydeb and Piya, as to why have they returned to the village. The members of the Singh Sardar family asked the victims to leave the village on the very same day. Joydeb and Piya refused to do so.
8. The next day morning i.e. 14th October, 2011, Joydeb and Piya went to visit a local fair at Manbazar. They returned sometime in the early afternoon.
9. As already narrated, the Bauri clan of the village was occupied in taking the son of one Manik Bauri to the Hospital, as a consequence no male member of the Bauris was present at that fateful night in the village. The appellants seizing the opportunity armed themselves with axe, sickles, stick and stones and entered into the house of Joydeb and dragged him and Piya out and beat them mercilessly.
10. The victims Joydeb and Piya died on the spot due to the severe fatal injury suffered. After the assault, the appellants and the 11 other accused

persons spited and urinated on the victims. They fled the scene after confirming that the victim had died.

11. The fateful night was a full moon night. It is stated that the entire Bauri family was at the hospital, and further no male member was present at the village. Two eye-witnesses to the incident, namely, PW-9, Bani Bauri and PW-17, Depali Bauri are stated to have informed the complainant, PW-1, Charu Bauri over the telephone about the murder of the victims.
12. Some members of Bauri family, who had gone to Manbazar Hospital returned to the village. On the very next date in the morning, PW-1, Charu Bauri lodged a formal complaint that was scribed by PW-3. PW-3 stated that he had written the complaint on the instructions of PW-1.
13. Inquest was held on the body of the victims around 3 O'clock in the afternoon most likely on 15th October, 2011. Inquest was witnessed by PW-4, Sasanka Bauri, PW-5, Jagat Bauri, PW-10, Ajit Singh Sardar and PW-14, Sukesh Sardar.
14. The body thereafter was sent for post mortem and the same was conducted by PW-12, Dr. Amal Nath.
15. Some of the accused persons were arrested and some surrendered in Court. They were also taken into custody and examined both during the Police Custody as well as Jail Custody.
16. Statements under Section 164 CrPC, of PW-9 and PW-13 were duly recorded. Statements of several other witnesses were recorded. Charge-sheet was submitted. Charges were framed against the appellants under

Sections 144/148/149/448/341/506(2)/302 read with Section 34 of the Indian Penal Code. Trial commenced. Prosecution examined as many as 23 witnesses.

The Evidence On Record and Analysis of this Court:-

17. The star witnesses of the prosecution were Bari Bauri (PW-9) and Depali Bauri, her daughter PW-13. Both have stated that they were in the courtyard, which is situated at a visible distance from the place of occurrence. They had clearly and in no uncertain terms narrated the prosecution case. The appellants spat and urinated on the bodies of the victims after the killing them. They stated that after brutal assault on the victims, their bodies were thrown outside the house of Swapan Hembram (PW-6). Their evidence could not be shaken in cross-examination.
18. Mr. Bhattacharyya, learned Counsel appearing on behalf of the appellants has argued that both PW-9 and PW-21, eye-witnesses to the incident, have stated that they had informed PW-1, father of PW-13 and husband of PW-9 about the entire incident over telephone and also orally when he came back to the house. The events in their entirety however have not found a place in the complaint.
19. An FIR is not an encyclopedia. The complaint was not drafted by a professional or an advocate. The complaint was written by a villager. Therefore, the complainant, PW 1 may not have related all the details to the scribe. A plain reading of the complaint reveals that that it has described the crime in substantial detail. The details are sufficient to enable the police to start an investigation. That is the sole object of an FIR.

20. The whole village suffered back-to-back shocks. First, concerning the deteriorating health of the son of one Manik Bauri. Second, this murder. The evidence on record indicates that the villagers were not at all happy with the presence of the victims in the village, given their illicit relationship. There were mixed feelings among the villagers when they heard about the murder of the victims. It is interesting to note that the wife of the victim, Joydeb, has not been the first informant.
21. Further, the defense before the trial Court did not put any suggestion to any of the witnesses, including the Complainant, PW 1, PW-9 and PW-13 on the above lines of the alleged omission.
22. Cross-examination facilitates the interaction between the truth and falsehoods. Out of that interaction what emerges is possibly the truth. A Court, in the absence of a suggestion to a witness, can only surmise as to what could be the answer of a witness to a question. In the absence of a suggestion to a piece of evidence adduced, which appears to have omitted something, it can only be fatal to the case of the prosecution when such omission or embellishment persuades the Court to disbelieve the case of the prosecution.
23. A complaint or an FIR can denude the probative value of a statement given before the court. The reliability of the statement, however, ultimately has to be decided upon a holistic reading of all the statements of the witnesses before the court.

24. It is now well-settled that minor discrepancies between the two eyewitnesses account is quite natural and in some cases lends more credence to their evidence. If PW-9 and PW-21 had deposed exactly and similar to one and other without any discrepancies, this Court would have had reason to doubt their evidence for being parrot like.
25. The prosecution case has been clearly established from the evidence of PW-9 and PW-21.
26. Mr. Bhattacharyya next argued that the statements leading to discovery of the weapons have been denied by the seizure witnesses. No weapons have been recovered.No such weapon was produced in course of trial.
27. The recovery and production of the murder weapon provides a link to the case of the prosecution. It strengthens the case of the prosecution. Its non-production, however, does not denude the prosecution's case. The failure to recover the murder weapon and its non-production may prove to be fatal when eyewitnesses do not support the prosecution's case.
28. When the deposition of eyewitnesses indicates that the police have withheld the murder weapons to obtain a benefit, the revelation of which may go in the favor of the accused, then the non-production may be fatal. Such is not the case here.
29. We note that the accused is entitled upon completion of the investigation to every material appearing against him or her, even if the prosecution decides not to produce them as evidence in the trial.

The prosecution equally has a right to choose the evidence and decide as to which evidence will prove the charges against the accused. The accused persons, not having called for the production of the murder weapon, cannot, at this stage, rely on the non-production of murder weapons to obtain a point of doubt against the prosecution's case.

30. Further, a weapon without being forensically examined would not come to aid in the trial. The case of defense is not that the murder weapons have not found the fingerprints of the appellants and the other 11 accused persons.

31. This Court is of the view that the following the irrefutable evidence on record has established the case of the prosecution beyond reasonable doubt:-

A. The motive for the murder was the illicit relationship between the victims, one of whom was the wife of the Sardar family; the members from the Sardar community/family committed the murder.

B. **The unanimous disapproval of the village of the illicit affair-** The entire village was against the illicit relationship of the victims. The wife of Joydeep, in fact, went to her father's house due to the torture inflicted by Joydeep whenever he visited her wife, Chhaya. The environment in the village thus was hostile for the victims.

- C. **The absence of the male members of the Bauri family in the village, especially the members of some consequence-** The male members were not present on that fateful night because it is proven that a substantial number of members of the village went to the Manbazar hospital.
- D. **The past threats** - the Sardar family had given threats to the victims that they should no longer live in the village. If they do so, the Sardar family will kill them.
- E. **The warning of the members of the non-Sardar family in the village** - The villagers communicated to the victims that the Sardar family/community had said that they would kill the victim if they came back to the village
- F. **The evidence of the direct eye witnesses to the assault and murder-** PW 9 and PW 13 saw the appellants mercilessly assaulting the victims. They saw the post murder conduct of the appellants. They did not keep mum on seeing it. They informed the same to the complainant, PW 1. PW 1 acted on the information the next day.
- G. **The post assault and murder conduct of the appellants and other accused persons-** The appellants and other accused persons spat and urinated on the person of the dead body of the victims, and further

urinated on them. The participants, therefore, expressed their loathe for the victims. The victims, therefore, were treated as impure.

32. The above discussion indicates a case of honour killing and/or revenge. While the acts of two victims may be immoral, the same by any stretch of imagination cannot be termed as illegal or bordering of any crime. The victims were brutally murdered in cold blood after being gravely outnumbered and despite stating that they wanted to live with one and others.
33. In the backdrop of the above, this Court finds no reason to interfere with the order of conviction and sentence imposed by the learned Additional Sessions Judge, Fast Track Court No.2, Purulia in Sessions Trial No. 20 of 2012 arising out of Sessions Case No. 150 of 2012 vide an order dated 8th July, 2015. The instant criminal appeal is dismissed.
34. In view of dismissal of the appeal itself, the connected application being CRAN 3 of 2021 is also dismissed.
35. The trial court records along with a copy of this judgement be sent down at once to the learned trial court for necessary action.
36. Urgent photostat certified copy of this order, if applied for, be supplied to the parties as early as possible.

(Rajasekhar Mantha, J.)

I agree.

(Rai Chattopadhyay, J.)