

07.11.2025
SL No. 11
Ct No. 22
SB

CRR 3476 of 2017

Mostabari Dhabak
Vs.
State of West Bengal

Mr. Joydeep Roy
Mr. Dipankar Paramanick

... for the State

1. This Court notes with considerable disquiet the procedural dereliction on the part of the petitioner. Despite several peremptory directions, counsel for the petitioner failed to appear today, nor was any prayer for accommodation advanced before this Bench. The petitioner lastly represented on 21.03.2025. Given the protracted age of this matter and the previous directions compelling parties to show necessary diligence, the non-appearance today indicates a clear abdication of the petitioner's duty to pursue the remedy diligently.
2. The State, conversely, is duly represented by Mr. Paramanick, learned advocate.
3. In the face of this wilful default and having regard to the age of the lis, this Court cannot permit the matter to languish indefinitely. The petition must be adjudicated on its merits, based on the records furnished. This non-prosecution, coupled with the age of the instant matter, compels this Court to proceed with adjudication on the merits of the record.

4. The application under Section 482 of the Code of Criminal Procedure seeks to invoke the extraordinary jurisdiction of this Court to interdict and quash the concurrent findings of conviction recorded by the two Courts below.
5. The conviction, arising from Bagdah P.S. Case No. 245/2000, pertains to a serious assault on Kuddush Ali, where the petitioner was found guilty under Section 341 IPC (Wrongful Restraint) and Section 323 IPC (Voluntarily Causing Simple Hurt) and was affirmed by the Appellate Court.
6. The Appellate Judgment dated 12.09.2017 passed by the learned Additional District and Sessions Judge, FTC No. 1, Bongaon, which affirmed the conviction originally passed by the learned Judicial Magistrate, Bongaon, in T.R. Case No. 249/2001, is the subject matter of challenge in this revision.
7. The genesis of the case stems from a written complaint lodged by Sajahan Mandal on 11.09.2000, detailing a serious assault on Kuddush Ali. The victim was assaulted with a *lathi*, sustaining injuries, including a bleeding injury near the left forehead, and was rendered senseless before being hospitalized. This evidence forms the basis of Bagdah P.S. Case No. 245/2000.
8. The foundational finding of guilt, recorded by the learned Judicial Magistrate, Bongaon, was based upon the due consideration and proper evaluation of the entire body of

prosecution evidence. This finding was subjected to the scrutiny of the first appellate court, the learned Additional District and Sessions Judge, Bongaon, who, after a meticulous re-assessment of the evidence, affirmed the conviction.

9. It is a settled principle that the revisional jurisdiction of the High Court is neither a third appeal nor an inquisition into fact. It is not the function of this Court to re-appreciate evidence unless the findings below are shown to be palpably perverse, based on no evidence, or suffering from a fundamental legal infirmity.
10. No such irregularity, illegality, or impropriety has been demonstrated or is apparent on the face of the record that would warrant interference with the concurrent conviction and sentence. The challenge must, therefore, fail.
11. Upon a careful review of the materials, this Court finds no manifest irregularity, illegality, or impropriety in the concurrent findings of conviction recorded under Section 341 IPC (Wrongful Restraint) and Section 323 IPC (Voluntarily Causing Simple Hurt). The conviction is founded on a robust appreciation of the evidence relating to the assault.
12. The petition fails on both procedural and substantive grounds. The petitioner's lack of interest to prosecute, coupled with the absence of any jurisdictional error in the

well-reasoned judgements of the two lower courts, leaves this Court with no alternative but to decline intervention.

13. Accordingly, the Criminal Revision Petition, along with application, if any, is hereby stands dismissed, being devoid of merit.

14. The interim order, if any, granted in favour of the petitioner during the pendency of this application, stands immediately vacated.

15. The Courts below shall ensure immediate compliance with the confirmed sentence.

16. As a necessary consequence of the finality attained by the conviction, the following directions are issued for the immediate execution of the affirmed sentence:

- a) The Learned Judicial Magistrate, Bongaon, is hereby directed to forthwith issue a Committal Warrant for the apprehension and committal of the petitioner, Mostabari Dhabak, to the appropriate Correctional Home.
- b) The effective sentence to be executed is Simple Imprisonment for five months.
- c) The Officer-in-Charge, Bagdah Police Station, shall immediately execute the said warrant and ensure the petitioner is taken into custody without any further delay for serving the confirmed term of imprisonment.

- d) The petitioner is granted a period of seven days from the date of this Order to deposit the consolidated fine amount of ₹750/- before the Learned Trial Court.
 - e) Should the petitioner fail to deposit the consolidated fine within the stipulated period, the corresponding default sentence of thirty-five days (five days for Section 341 IPC and one month for Section 323 IPC) shall be served in addition to the five-month substantive term.
17. The Registrar (Judicial) of this Court shall certify and transmit this Order to the Courts below for immediate compliance.
18. All bail bonds or surety bonds furnished by the petitioner during the pendency of the Criminal Appeal or this Revision shall stand cancelled and discharged.
19. The Rule is accordingly discharged.

(Uday Kumar, J.)