

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 Ajay Kumar Gupta**

CRA 690 of 2015
In
CRAN 2 of 2017 (Old No: CRAN 4515 of 2017)

**Daman Kuiry and Another
- Vs. -
The State of West Bengal**

For the Appellants: Mr. Moinak Bakshi,
Ms. Niketa Bhattacharjee.

For the State: Mr. Debasish Roy, Ld. P. P.,
Ms. Amita Gaur.

Heard on: September 25, 2025 & November 11, 2025.

Judgment on: November 11, 2025.

Rajasekhar Mantha, J.:

1. The instant appeal is directed against the judgment and order of conviction dated 27.08.2015 passed by the learned Additional District & Sessions Judge, F.T.C. Court No. 2 at Purulia in Sessions Trial No. 11/2013 arising out of the Sessions Case No. 57 of 2013.

2. The appellant was convicted and sentenced under Sections 341/324/326/307/34 of the Indian Penal Code.

THE PROSECUTION CASE:

3. Prior to 10.11.2003, the appellants purchased a goat from PW-1, Keshab Kuiry, for a sum of Rs.800/-. The appellants paid Rs.600/- and

assured payment of the balance Rs.200/- within 15 days. The victim made repeated requests to the appellants to pay the balance Rs 200, but in vain.

4. On the fateful day i.e. 10.11.2003 the appellants and the victims, Arun and Daman Kuiry had a heated altercation with each other in connection with the payment of outstanding of Rs.200/-. They hurled abused at each other. There was however no physical assault by any party on the other.

5. After the altercation around 8 to 9 p.m. the appellant no.1, Daman Kuiry is stated to have sent his brother Naresh Kuiry to ask the victims to come to his house to look at the accounts and receive payment. When the victims Keshab and Arun Kuiry were on the way to the house of the appellants to meet them, they were waylaid near a "Hari Temple". The appellant, Naresh Kuiry is alleged to have physically restrained the victim Keshab. Daman Kuiry is stated to have assaulted Keshab on the head with a sword. He fell down bleeding profusely. He was taken to Jhalda Police Station and was directed by the police to be taken to the Jhalda P.H.C.

6. The Medical Officer at Jhalda P.H.C., namely, Subrata Sil, PW-4 (first trial) found the injury to be extremely serious and referred him to Purulia Medical College and Hospital for better treatment. Finding Rajendra Institute of Medical Science, Ranchi, to be better equipped and equally close to where the victim then was, the victim Keshab was taken thereat.

7. The victim remained unconscious for about 15 days after the incident. He was discharged from Ranchi Medical College and Hospital on 1st December, 2003. Immediately thereafter the victim approached the police with a complaint but no FIR was registered.

8. The victim moved the local Magistrate under Section 156(3) of the Code of Criminal Procedure, who directed FIR to be registered. Consequently FIR No.34 of 2004 dated 14th May, 2004 was registered under Sections 341/324/326/34 of the Indian Penal Code. Investigation was completed and charge-sheet submitted before the Court below. Charges were initially framed against the appellants under Sections 341/324/326/34 of the Indian Penal Code and trial commenced.

THE EVIDENCE ON RECORD AND ANALYSIS OF THIS COURT

9. **PW-1, Keshab Kuiri, the main victim.** He narrated the prosecution case in details as set out hereinabove. His evidence could not be shaken in cross-examination.

10. **PW-2, Arun Kuiri, brother of the victim.** He also deposed and supported the prosecution case in its entirety. His evidence also could not be shaken in cross-examination.

11. **PW-3, Dronacharja, another brother of the victim Keshab.** He had deposed in lines with the prosecution case.

12. **PW-4, Dr. Subrata Sit, Medical Officer of Jhalda BPHC,** who confirmed that he had examined the victim and found sharp cutting injury on the left side of scalp of the victim. His condition was very serious and was referred to Purulia Sadar Hospital for better treatment. He proved his injury report which is exhibited (Exhibit-2).

13. **PW-5, Patit Kuiri, an independent witness and local villager,** who was declared hostile. He denied having told the police that the appellants had attacked the victim.

14. **PW-6, Rajen Kuiri.** He was also declared hostile. He denied having told the police that the appellants assaulted the victim Keshab.

15. **PW-7, SI Tarun Kanti De, was the Investigating Officer of the case.**

He narrated the entire prosecution case and indicated the stages of the investigation conducted by him. He deposed that PW-5 had stated before him during investigation that the appellants attacked and caused injuries on the victim, Keshab.

16. Thereafter, in course of trial, the Sessions Court was of the view that Section 307 of the Indian Penal Code should be added to the charges framed. The same was done and the trial afresh commenced. Each of the witnesses, who deposed in the trial earlier, adopted their depositions in the second stage of the trial in toto.

17. The learned Trial Judge examined the accused persons under Section 313 of the Code of Criminal Procedure. Based on the above evidence, the learned Trial Judge convicted the appellants, inter alia, on the second part of Section 307 of the Indian Penal Code for life.

18. This Court has carefully considered the evidence on record and the arguments advanced by the learned Counsel appearing on behalf of the appellants, Mr. Bakshi.

19. Mr. Bakshi would argue that the medical documents of Rajendra Medical College and Hospital, Ranchi could not have been looked into by the Trial Court since the Medical Officer, who signed thereon was not examined. He further submits by reference to Sub-Section (3) of Section 294 of the Code of Criminal Procedure that while it may be true that his

clients had not objected to such medical documents being exhibited, the propriety of the treatment method of the Medical Officer of Rajendra Medical College and Hospital, Ranchi cannot be accepted as the gospel truth. He argues that only the Medical Officer who treated the victim at Rajendra Medical College and Hospital, Ranchi could have established that the injuries sustained by the appellants were so grievous and despite best of treatment, he was in Hospital for about 24 days.

20. This Court notes firstly that several attempts were made by the Trial Court to issue notices to Medical Officer of the RMCH, Ranchi, who treated the victim but in vain. In fact, there was no need to issue any such summons since the medical documents were exhibited without any objection by the appellants subsequently.

21. Section 294 of the CRPC is set out below:-

Sec. 294. No formal proof of certain documents

1. Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused, as the case may be, or the pleader for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document.

2. The list of documents shall be in such form as may be prescribed by the State Government.

3. Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry trial or other proceeding under this Code **without proof of the signature of the person to whom it purports to be signed;**

Provided that the Court may, in its discretion, require such signature to be proved.

(Emphasis applied)

22. An author of a document must come to the court to depose that he/she is its author. Sub-section 1 of section 294 codifies the said principle. The said principle however is not absolute. The said principle has

been relaxed by and under sub-section 3 of Section 294. The circumstance, under which the said principle may be relaxed, is that when the rival party has not disputed the genuineness of the document, meaning thereby the rival party admits that the document has been prepared by the author, who has signed on it.

23. The proviso to sub-section 3 of section 294 assumes great significance since it empowers the Court to summon the author of the said document to prove his or her signature on it. Therefore, when a document, produced by the prosecution in evidence, has not been disputed by the accused, it no longer lies in the mouth of the accused to subsequently question the genuineness of the said document.

24. When the accused chose not to dispute the document, the accused leaves the genuineness of the document to be decided by the Court, as would be evident from the expression '*may be read in evidence in any inquiry trial may*' employed in sub section 3 of Section 294. The Court thereafter in exercise of its discretion takes a decision as to whether the genuineness of the document can only be proved by the signature of the author thereof.

25. In the present case, the trial court summoned the medical officer and, upon his non-appearance, took a decision to rely on his medical report. The discretion under the said proviso has been exercised judiciously.

26. Thus, this Court is of the view that Section 294(3) of the Code of Criminal Procedure is clearly attracted to enable the learned Trial Judge to have looked into the medical documents of Rajendra Medical College and

Hospital, Ranchi and rely upon its contents. The said document and its contents are deemed to be proved with the consent of the appellants.

27. Having regard to the evidence on record, the medical documents of Rajendra Medical College and Hospital, Ranchi in the light of the evidence of Dr. Subrata Sit (PW-6) and his injury report, this Court is of the view that the prosecution has been able to bring home the charges against the appellants.

28. This Court, however, notes that the actual incident of assault on the victim, Keshab occurred after an altercation. Whether or not the altercation was a precursor and an excuse for the actual assault is debatable. However, one cannot ignore the fact that the victim and his brother was summoned to the house of the appellants, Daman Kuiry to settle accounts and were waylaid assault on the way to the house of the appellants. The appellants called on the victim after a good amount of time having passed from the altercation. Thus, the pre-meditation of the crime and the waylaid assault on Keshab by the appellants cannot be ruled out. It is on record that the victim has suffered and continues to suffer speech impairment from time to time and compromised mental function. He is, however, alive.

29. In the light of the above, this Court is of the view that the sentence on the appellants under Section 307 of the Indian Penal Code may be reduced from life to 14 years.

30. The appellant no.1, who is in custody without bail shall suffer a total conjoint period of 14 years and fine, as imposed by the Trial Court along with all consequences that he is directed to suffer as a result his conviction.

The length of incarceration already suffered by the appellant no.1 shall be set off against the aforesaid period of 14 years. Similarly, the appellant no.2 shall surrender before the Court below and/or be taken in custody to serve the aforesaid period minus any period that he has already suffered incarceration.

31. The period of detention undergone by the appellants during investigation and enquiry shall also be set off under Section 428 of the Code of Criminal Procedure corresponding to Section 469 of BNSS, 2023. The appellants are directed to surrender their bail bonds before the trial Court within a month and served out the sentences and pay a fine as aforesaid, failing which the trial Court shall take appropriate steps for conviction and realization of fine in accordance with law.

32. With the aforesaid observations, C.R.A. 690 of 2015 is disposed of.

33. CRAN 2 of 2017 shall also stand dismissed.

34. The trial court records along with a copy of this judgement be sent down at once to the learned trial court for necessary action.

35. Urgent photostat certified copy of this order, if applied for, be supplied to the parties as early as possible.

(Rajasekhar Mantha, J.)

I agree.

(Ajay Kumar Gupta, J.)