

**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 1976

The State of West Bengal

Vs.

Rouson Ali Mondal & Ors.

For the State : Mr. Debasish Roy, Ld. P.P.
: Mr. Parthapratim Das, Adv.

Heard On : 23.06.2025

Judgment Delivered On : 23.06.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that victims, namely, Jamat Ali Mondal and Enayet Mondal had purchased the disputed lands being plot no. 1933 and 1933/2100 along with other lands in the year 1945 from Ahad Box Sarkar by virtue of a registered kobala, and since then, they had been possessing the said land with absolute ownership. They cultivated paddy in that land and at 8 a.m. on 16.11.1972, when they were reaping the ripe paddy so grown from that land in the company of their respective sons and other labourers, the accused persons with reference along with 30/40 people entered the land and attacked them with spears, lathis, and iron rods. As a result of such attack, Jamat Ali Mondal and Enayet Ali Mondal both sustained serious injuries and were taken to Khardah Hospital, and thereafter, shifted to Calcutta Medical College and Hospital. Enayet Ali Mondal was released on that

very day but Jamat Ali Mondal died and post-mortem examination of the latter's dead body was held on 18.11.1972. Autopsy surgeon opined that the death was due to the effects of the head injuries and that it was ante-mortem and homicidal in nature.

2. After the incident, F.I.R. was lodged by Sukkur Ali Mondal, s/o Enayet Ali Mondal, at Khardah Police Station, and after completion of the investigation, the police submitted charge-sheet under Sections 148/302 read with 149/307 of the I.P.C. After commitment, the case was transferred to the Learned Additional Sessions Judge, 1st Court, Alipore, for trial and disposal. The prosecution has examined altogether 13 witnesses to prove its case.

3. At the time of trial, from cross examination and examination under section 313 of Cr.P.C, it is found that accused persons were the real owners of the disputed lands as their name was recorded in RS and CS record of rights.

4. By judgment and order dated 21.08.1975, the accused persons Roushan Ali Mondal, Umed Ali Mondal, Jamat Ali Hati, Sk. Ali Mohammad, Hazi Anwar Ali, Achmat Ali Mondal, Khela Mondal, Ena Mondal @ Enayet, and Janab Ali Mondal were found not guilty under Sections 148/302 read with 149/307 of the I.P.C. and they were acquitted from all the charges of the case. The Learned Court found that there were some previously existing complications between the parties, and the accused persons went to the disputed land to prevent the victims from removing the paddy and a hot altercation was started which resulted in a sudden fight between the parties.

5. The State has preferred this appeal on 21.04.1976, challenging the said judgment of acquittal. In spite of service, the respondents remained unrepresented, and as such, the matter is taken up for disposal on its merits.

5. The Trial Court, after compliance with necessary formalities, recorded an order of acquittal which is in challenge before this Hon'ble Court. In spite of service, the respondents are unrepresented, and hence, the matter is taken up for disposal on merits.

6. In our view, it will not prejudice the respondents even if the service is dispensed with after taking into consideration all materials available on the record and in view of the order that we propose to pass.

7. We have heard the Learned Public Prosecutor who argues in favour of the appeal and points out some infirmities in the order of the Trial Judge.

8. This court, however, is not convinced with the arguments advanced on behalf of the State since, according to us, the order of acquittal has been recorded by the Learned Trial Judge upon consideration of all the materials placed before him.

9. In view of the law 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.

10. Accordingly, the appeal fails and is, thus, dismissed. No order as to costs.

I Agree.

(RAJARSHI BHARADWAJ, J.)

(APURBA SINHA RAY, J.)