

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 5 of 1976

***The Superintendent and Remembrancer of
Legal Affairs, West Bengal***

-Vs-

Hiren Datta & Anr.

For the State : Mr. Debashis Roy, Ld. PP
Mr. Partha Pratim Das

Heard on : 14.07.2025

Delivered on : 14.07.2025

Rajarshi Bharadwaj, J.:

1. No one appears for the respondents.
2. The prosecution case, inter alia, is as follows:
3. That on a complaint by one Manindra Nath Kar against the respondents and two others, the Learned Sub-Divisional Judicial Magistrate, Berhampore, took cognizance of the case under Sections 306, 342 and 380 of the Indian Penal Code and after appearance of the accused in Court, he committed the case to the Court of Sessions, Murshidabad, for trial. The learned Judge framed charges under Sections 306 and 342 of the said Code.
4. That the case for the prosecution, in brief, was that Apurba Kar, husband of accused Monica, was a teacher in a school at Domkal, that Apurba built a

house at Domkal and lived there with his wife and a baby. Monica, her brother accused Hiren Datta and their parents put pressure on Apurba to transfer his Domkal house and his bank accounts to accused Monica, that Apurba refused, accused Hiren went to the Domkal house with some associates on 23.01.1974 and accused Monica left the house with them with her ornaments and valuables for her father's house at Kadai in Berhampore town in spite of Apurba's objections. Distressed by the conduct of the accused Apurba lodged an information over the occurrence with police at Domkal Thana. Within a day or two, Apurba came to Berhampore and consulted Sri Swadhin Kumar Sanyal, Advocate, who advised him to seek remedy in Criminal Court. Apurba again came to Berhampore on 29.01.1974 for an amicable settlement and when he was passing in a rickshaw he was forced by accused Hiren and his associates to get down and was then dragged by them to his father-in-law's house. On 31.01.1974 some other friends of Apurba came to Kadai and requested the accused Hiren and Monica to let Apurba go to attend his school, but the accused refused to allow Apurba to go away and further insisted that Apurba must make over his properties to Monica. Further attempts were made for rescuing Apurba when on 01.02.1974, a search warrant was taken out for the recovery of Apurba, that in spite of repeated request, the police did not execute the search warrant and on 02.02.1974 informed Apurba's people that Apurba had committed suicide in the house of his father-in-law. The post-mortem was held on the same day at 12:05 p.m. and the body handed over to the accused Monica.

5. That the defence pleaded not guilty.

6. That the prosecution examined 12 witnesses P.W.1 and P.W.2 were brothers of Apurba. P.W.3 was an advocate of Berhampore Court. P.W.4., an Ex-M.L.A., P.W.5, P.W.6, P.W.8, P.W.9 and P.W.10 were acquaintances of the family of Apurba. P.W.7 was another Advocate of the said Court, P.W.11 was the Doctor who held post-mortem examination on the deadbody of Apurba and

P.W.12 was the Investigating Officer. The defence examined the younger sister of accused Monica as D.W.1.

7. That the learned Judge, by his order dated 15.12.1975, acquitted the accused Hiren Dutta and Monica Kar. The learned Judge had acquitted the other two accused Dharani Dutta and Jyotirmoyee Dutt by his order dated 22.11.1975.

8. 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 of administrative notice, the accused/respondents are unrepresented and as such, we propose to deal with the appeal on its merits as no one responded even after issuance of such administrative notice.

9. 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.

10. 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.

11. 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.

12. 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.

13. Accordingly, the appeal fails and is dismissed, however, with regard to no order as to costs.

14. Copy of this judgment along with the trial court records, if any, be sent down to the trial Court immediately.

15. 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]