

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 1987
The State of West Bengal
Vs.
Khandru Bhakta & Anr.

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

Heard On : 25.06.2025

Judgment Delivered On : 25.06.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that on 11.11.1978 at about 2 p.m., the accused persons along with other miscreants armed with lathi, bows and arrows forcibly entered into the land of Mangal Singh, situated at Baksha, J.L No. 1119 Anchal XII, Medinipore, and reaped the unripe paddy. When Mangal Singh and his wife and Guiram Singh objected to this unlawful trespass, the accused persons assaulted them and due to such assault, Mangal Singh died.

2. Dimbu Singh, wife of the deceased, lodged an F.I.R. before the Nayagram Police Station being Nayagram Police Station case no. 8 dated 13.11.1978

under sections 302/323/148/149 of IPC. After investigation, the police submitted charge-sheet under sections 302/323/148/149 of IPC and later the case was committed to Learned Additional Sessions Judge, 6th Court, Medinipore for trial and disposal. The prosecution has examined 19 witnesses.

3. The Learned Court found that there were so many discrepancies in the evidence of prosecution witnesses. It has not been proved that the accused persons were members of any unlawful assembly having a common object. There were serious contradictions between the evidence of de-facto complainant in her examination before the Court on one hand, and the letter of complaint, on the other. The presence of Guiram Singh and Dimbu Singh at the place of occurrence is also questionable. Other witnesses came to the alleged place of occurrence after occurrence of the incident and hence, they are not competent witnesses.

4. By judgment and order dated 12.07.1985, the accused persons Khandru Bhakta and Gouhari Bera were found not guilty under sections 302/323/148/149 of I.P.C. and they were acquitted from all the charges levelled against them.

5. The State has preferred this appeal on 06.01.1986, 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.

6. The Trial Court, after compliance with necessary formalities, recorded an order of acquittal which is under 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.

7. 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 we propose to pass.

8. 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.

9. 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.

10. 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.

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

I Agree.

(RAJARSHI BHARADWAJ, J.)

(APURBA SINHA RAY, J.)