

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 30 of 1982
The State of West Bengal

-Vs-

Narayan @ Naru Banerjee & Anr.

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

Heard on : 30.06.2025

Delivered on : 30.06.2025

Rajarshi Bharadwaj, J.:

1. That the prosecution case in brief, is that on 11th April, 1980 at about 6/6-30 p.m. Bhim Bauri (deceased) came near the Shiva Mandir of Village – Chharrah for purchasing some commodities. At that point of time, just in front of the tea-stall of one Barun Kaibarta one Shyam Deogharia (since deceased) all of a sudden, ordered Sohan Podder and Narayan @ Naru Banerjee to kill Bhim Bauri. Accordingly, Sohan Podder assaulted Bhim Bauri on his head. Bhim Bauri fell down and became unconscious. The brain substance of the deceased came out from his head as a result of the 'tabla' injury inflicted by the said Sohan Podder. After the assault, Narayan @ Naru Banerjee also assaulted the deceased on his shoulder by ballam causing injury there. The incident was witnessed by three witnesses Kamalesh Bauri (P.W.1), Karun Bauri (P.W.2) and

Bishnu Bauri (P.W.3). After the incident, the three eye-witnesses fled away out of fear as the respondents are notorious criminals of the locality. P.W.5, a rickshaw puller, while returning home, found the deceased near the tea-stall in an unconscious state and bleeding injury. He took the injured in his rickshaw to his residence. Kamalesh Bauri (P.W.1) along with others lodged the First Information Report and the injured was sent to Sadar Hospital, Purulia where the injured succumbed to the injury at about 11:00 p.m. On the next day, i.e. on 12.04.1980 at about 11:00 p.m. Narayan @ Naru Banerjee, one of the accused who inflicted ballam on the shoulder of the injured, sent a telephonic information to the Purulia Muffasil Police Station at 7:00 p.m. informing about the outbreak of law and order at village – Chharrah. The said message was diarised being Purulia (M) P.S. General Diary Entry No.334 dated 11.04.1980. After the F.I.R, Police searched for Narayan @ Naru Banerjee who sent the telephonic information. But he could not be found anywhere in the village. Other accused were searched for but they also could not be found anywhere.

2. That in support of its case, prosecution examined 9 witnesses.
3. 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, the accused/respondents are unrepresented and as such, we propose to deal with the appeal on its merits.
4. 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.
5. 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.
6. 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.

7. 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.

8. Accordingly, the appeal fails and is dismissed.

9. Copy of this judgment along with the trial court records, if any, shall be sent back to the trial court at once for necessary compliance.

10. 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]