

**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 23 of 1982

The State of West Bengal

Vs.

Babu Mitra & Ors.

For the State : Mr. Debasish Roy. Ld. P.P.
: Mr. Parthapratim Das, 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 01.08.1977, at about 3:10 p.m., the accused persons carrying firearms entered into the office of the D.M.I, Immambarah Hospital, Chinsurah, for the purpose of committing dacoity. They broke into the cash counter of the hospital by scaling over the wire-fencing of the said cash counter and created panic & chaos, and thereafter they looted a sum of Rs. 1, 68, 000/- which was brought by the hospital staff from the SBI, Chinsurah Branch, for disbursing to the staff of the hospital as their salary. At the time of the incident, the dacoits had kept a boat ready at the ferry ghat of Chinsurah and, subsequently, fled the hospital while firing their

guns and as a result of such firing, two persons were injured and among them one, namely, Achinta Kumar Sil died.

2. A Linen keeper of the Hospital had lodged an F.I.R. before the Chinsurah Police Station under sections 396/412/414/212/34 of I.P.C. After investigation, police submitted charge-sheet under sections 396/412/414/212/34 of I.P.C. and under section 6(3) of the Indian Explosive Act, 1884, and later, the case was committed to the Learned Additional Sessions Judge, 2nd Court, Hoogly, for trial and disposal. The prosecution has examined 108 witnesses.

3. The Learned Court found that the prosecution has not been able to connect the accused persons with the dacoity or with receiving & retaining of the stolen property. The prosecution witnesses have not been able to corroborate the allegations against the accused persons. The evidence adduced by the prosecution with regard to the seizure of stolen money from the accused persons namely, Deo Kumar Chowdhury and Etowari Chowdhury is not consistent. The deposition of PW 86 is not corroborated fully by PW 96. Evidence of the concerned Police Officers as to seizure of the stolen property was not corroborated by the seizure witnesses. One of the accused persons, namely, Deo Kumar Chowdhury did not admit to his involvement in the dacoity in his confessional statement, but only stated that he had received Rs. 3000/- from two persons as a remuneration for hiring a boat. The Test Identification Parade was held but none of the witnesses identified or recognised the accused persons, in spite of the dacoity having occurred in broad daylight and especially in view of the fact that none of the dacoits had their faces covered.

4. By judgment and order dated 08.05.1982, the accused persons Babu Mitra, Md. Nasib, Nag Narayan Singh, Bholanath Das, Ashoke Shaw, Kaleswar Ram, Deo Kumar Chowdhury, Etowari Chowdhury, Narayan Shaw, Ram Dulari Biswakarma, Paresh Shaw, and Chandra Sekhar Ghosh were found not guilty

under sections 396/412/414/212 of I.P.C. and they were acquitted from all the charges of the case.

5. The State has preferred this appeal on 16.08.1982, 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 that 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.)