

**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 49 of 1981  
The State of West Bengal  
Vs.  
Emajuddin Sk. @ Jharu**

|                       |                                                                              |
|-----------------------|------------------------------------------------------------------------------|
| For the State         | : Mr. Debasish Roy, Adv.<br>Ms. Soheli Das, Adv.<br>Ms. Trisha Rakshit, Adv. |
| Heard On              | : 21.05.2025                                                                 |
| Judgment Delivered On | : 21.05.2025                                                                 |

**Apurba Sinha Ray, J. :-**

1. Challenging the order of acquittal recorded in favour of the accused respondent, the present appeal has been preferred after obtaining leave by the State of West Bengal. In spite of service the respondent remained unrepresented.
2. In view of the order proposed to be passed, we are of the opinion that service of such notice can be dispensed with.
3. The prosecution case may be encapsulated as hereunder:-

On the basis of First Information Report by the defacto complainant Md. Muzammel Haq, Lalgola Police Station Case No. 8 dated 18.10.1976 under section 147, 148, 149, 342, 304, 307/326 was started. The allegations against the respondents were that they formed an unlawful assembly with deadly weapons on October 18, 1976 and committed murder of one Zhillar Rahaman of village Zhoubuna near Machadobar within the District of Murshidabad. After completion of the investigation the accused were chargesheeted under Sections 147, 148, 149, 342, 304, 307/326 and subsequently charges were framed under Section 148, 302/149, 302/34 of IPC. In order to support its case the prosecution examined as many as 10 witnesses.

**4.** The Learned Judge after examining the accused/respondent under Section 313 of the Code of Criminal Procedure and after hearing the arguments on behalf of the parties, was pleased to record an order of acquittal.

**5.** We have scanned the evidence and also the materials placed before the Trial Court during the course of the trial alongwith the judgment impugned herein. Though the Learned Public Prosecutor argues in favour of the appeal and prays for an order of remand, in our opinion the same would be unjustified in view of the fact that in the interregnum 44 years have passed since the prosecution case was launched in the year 1981. Moreso, in view of the fact that the order of acquittal recorded in favour of the accused/respondents, in our opinion, cannot be said to be unjust.

**6.** In this context reliance may be placed on the judgment of the Hon'ble Supreme Court in the case of Constable 907 Surendra Singh & Anr. Vs. The State of Uttarakhand, reported in 2025 SCC Online, SC 176.

**7.** Accordingly the appeal fails and stands dismissed, however, with no order so as to costs.

**8.** In view of the discussion made hereinbefore, the appeal fails and is dismissed accordingly, however, with no order as to costs.

**9.** Urgent photostat certified copies of this Judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

**I Agree.**

**(RAJARSHI BHARADWAJ, J.)**

**(APURBA SINHA RAY, J.)**