

**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 22 of 1982

The State of West Bengal

Vs.

Sunderlal Khettry @ Nadua & Ors.

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

Heard On : 14.07.2025

Judgment Delivered On : 14.07.2025

Apurba Sinha Ray, J. :-

1. The prosecution case, in a nutshell, is that Sanatan Ghose @ Sona, since deceased was resident of in 3, Radhakanta Deb Lane, Kolkata - 700005 with his mother and sister. Due to previous enmity, the deceased person had fled away from his locality and returned home on 21.03.1981. He went out on the fateful night to have some food when five accused persons along with other local people were drinking liquor. They picked up a quarrel with the deceased and for the safety, the deceased ran to Radhakanto Deb Lane. All the accused persons chased him and after apprehending him, they poured fist and blows upon him and Sambhu cut his throat with razor and as a result of which victim expired. Then the accused persons carried the dead body of the deceased on an ice trolley and in the next morning the dead body was found in a trench at Jatindra Mohan Avenue. Police came and took the dead body to the morgue where the relatives of the deceased identified the body.

2. After the incident, on the basis of a suo moto complaint, Shyampukur Police Station on 22.03.1981 was started a case under sections 302/34 of I.P.C against the accused persons. The I.O. seized razor, ice trolley, gunny bags. After investigation, charge-sheet was submitted under sections 302/34 of I.P.C against the accused persons and the case was committed to Second Bench, City Sessions Court, Calcutta for trial and disposal. The prosecution has examined 6 witnesses to prove its case.

3. The Learned Court of Sessions Judge, Calcutta found that in the chemical examination report, no blood was found on the ice trolley. The hairs found in gunny bags were different from the sample of hairs taken from the deceased. The deposition of eye witnesses had not supported the prosecution case. Their statements under section 164 of Cr.P.C were different from the statements stated on oath. Thus, their evidence was discarded. The razor was discovered from the unused lower chamber of the pan shop in pursuance of the statement of Sukdeb Shaw who was not examined by the prosecution as a witness. The blood in the razor was too little that the FSL report could not detect that the blood of the deceased and blood found in the razor were same. Thus, the prosecution had failed to prove its case beyond reasonable doubt.

4. By the judgment and order dated 12.04.1982, the accused persons, namely, Sunderlal Khettry @ Nadua, Babulal Sharma @ Chandal, Basudeb Pal and Sambhu Singh were found not guilty under sections 302/34 of I.P.C and they were acquitted from all the charges of the case.

5. Challenging the said judgment of acquittal, the State has preferred this appeal on 13.09.1982. 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.

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

I Agree.

(RAJARSHI BHARADWAJ, J.)

(APURBA SINHA RAY, J.)