

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 1841 of 2009

**Jamirul Saikh
-Vs-
The State of West Bengal**

For the Petitioner : Mr. Rajendra Banerjee

For the State : Ms. Sujata Das

Heard on : 26.11.2025

Judgment on : 24.02.2026

Ananya Bandyopadhyay, J.:-

1.The instant revisional application has been filed by the petitioner for quashing of the judgment and order dated 22.04.2009 passed by the Learned Additional Sessions Judge, Birbhum at Rampurhat in Criminal Appeal No.8 of 2008 arising out of the judgment and order dated 28.08.2008 passed by the Learned Assistant Sessions Judge, Birbhum at Rampurhat in Sessions Case no.80 of 2001, Sessions Trial No.1 of October, 2004 arising out of G.R. Case No.196 of 1999 corresponding to Murarai Police Station Case No.31 of 1999 dated 27th day of March, 1999, thereby convicting the petitioner on the charge framed against him for commission of offence

punishable under Section 307 of the Indian Penal Code, 1860 and sentenced him to suffer rigorous imprisonment for 3 years with a fine of Rs.10,000/- in default to suffer rigorous imprisonment for 9 months more.

2. The prosecution case precisely stated on 26th August, 1999, at about 15:00 hours, the husband of the complainant went to the field to obtain water from a deep tube-well. He entered into a brawl with his brother Jamirul Sheikh regarding distribution of water. Thereafter, the husband and the son of the complainant returned from the field towards their residence on the way, near the house of Malek Sk., the petitioner suddenly caught the throat of the husband of the complainant, Yeadul Sk. and stabbed him by a knife. Consequently, Yeadul Sk. received severe injuries on his abdomen. After the incident, the petitioner fled.
3. On the basis of the written complaint, initially a case was initiated vide Murarai Police Station Case No.31 of 1999 dated 27th day of March, 1999 under Section 326 of the Indian Penal Code, 1860 against the petitioner.
4. Pursuant to the said complaint, charge-sheet had been submitted under Section 326 of the Indian Penal Code, 1860. Thereafter, considering the materials on record, charge had been framed under Section 307 of the Indian Penal Code, 1860, whereupon the petitioner pleaded not guilty and claimed to be tried.
5. In order to prove its case, the prosecution had examined 10 witnesses and exhibited certain documents. No evidence had been adduced on behalf of the defence.

6. The Learned Advocate representing the petitioner submitted as follows:-

- i. The prosecution failed to cite any independent witness to the case rather placed reliance upon the interested witnesses.
- ii. The prosecution failed to establish the case under Section 307 of the Indian Penal Code, 1860, since the prosecution witnesses did not subjectify the intention and knowledge of the offence of the petitioner.
- iii. The evidence of PW-3, who happened to be the scribe of the First Information Report in cross-examination stated to have written the complaint upon the direction of Officer-in-Charge of the local Police Station. As a result, the initiation of the First Information Report was based on surmises, conjectures and afterthought.
- iv. PW-4 and PW-6 might be hostile to evidence but not hostile to truth.
- v. The prosecution neither produced the offending weapon nor the blood-stained wearing apparels of the injured person. Without considering the same, the Learned Judge in appeal came to the conclusion to convict the accused under Section 307 of the Indian Penal Code, 1860.
- vi. The spirit of the Exception 4 to Section 300 of the Indian Penal Code, 1860, although the instant case clearly fell within the Exception 4 to Section 300 of the Indian Penal Code, 1860 was not considered.
- vii. The Trial Courts in appeal failed to appreciate the discrepancy of the evidence adduced by PW-10 and PW-1., who happened to be the doctors as the same was based on probabilities.

- viii. The Trial Courts in appeal failed to appreciate untrustworthiness of prosecution witnesses as their evidence was biased and not independent and as interested relatives of the victim. prosecution witnesses were not independent in nature and relatives of the victim. Accordingly, in absence of ocular evidence, the said criminal revision ought to be succeeded by setting aside the Judgement and Order dated 28th day of August, 2008.
- ix. The Trial Courts erred in law by not considering the spirit and intent of Section 307 of the Indian Penal Code, 1860 as the knowledge and intention were the main ingredients of Section 307 of the Indian Penal Code, 1860, which had not been satisfactorily proved by the prosecution in the instant case. Accordingly, the petitioner was deserved to be acquitted from all the charges levelled against him.
7. The Learned Advocate representing the State submitted that the prosecution was able to prove its case based on corroborative evidence of the prosecution witnesses supported by the medical evidence and the appeal shall be dismissed.
8. A circumspection of evidence of the prosecution witnesses revealed as follows:-
- i. PW-1, the Medical Officer, posted at Balurghat S.D. Hospital on the relevant date, examined the victim Yeadul Sk. suffering from stab injury on his lower abdomen. PW-1 detected the victim as aforesaid to be in his senses with a pulse rate of 94 per minute. The penetrating

wound was to the extent of 2 inches on the left iliac region with protrusion of small intestine with omental fat. The victim was treated through exploration of abdomen under general anesthesia on the same date. The victim had to be administered with two units of blood and was discharged on 09.04.1999. PW-1 opined the injuries to be grievous caused by sharp-edged weapons. The injury report along with the final opinion bearing the signature of PW-1 was marked as Exhibit-1. PW-1 clarified the sharp-edged weapon to include dagger knife etc. PW-1 further recounted the vital membrane was effected as a result of the injury which might have subsequently caused death of the patient. During his cross-examination, PW-1 stated the signature of the victim was not obtained on the injury report nor the names of the assailants had been delineated in the history of treatment. PW-1 categorically stated such type of injury could not be caused by "*banti*" or "*bamboo kanchi*". Moreover, such injury could not be caused by a sharp-pointed iron pole.

- ii. PW-2, the wife of the victim, deposed the narrative of date and time of the incident between the victim and his brother, the present petitioner. PW-2 failed to detail the reason of altercation between the victim and the petitioner. She further recounted on return from the field along with his son Ripon Sk. after cultivating the same, the petitioner caught the throat of the victim in front of the door of Malek Sk. and stabbed him with a knife in his abdomen. Being informed by

a local boy, PW-2 reached the spot and noticed her husband in an unconscious state with his intestine protruding out. Being accompanied by her son, Islam and other villagers, she transmitted her husband on a trolley to Chatra PHC. On the way to the hospital, the victim regained his senses and disclosed to have been stabbed by the petitioner, i.e., Jamirul. He was subsequently referred to Rampurhat S.D. Hospital where he had been admitted for a considerable period of time. PW-2 filed a complaint to the aforesaid incident at Murarai P.S. being scribed by one Hasiyat Khan marked as Exhibit-1/1. During her cross-examination, PW-2 stated the complaint to have been written in the verandah of her house. She further stated one Salim who witnessed the incident of assault to have informed her. She failed to state the number of persons witnessing the incident of assault. Malek who, according to her, had seen the incident, had expired. She further urged that the victim was conscious prior to his transmission to Rampurhat S.D. Hospital.

- iii. PW-3 deposed to have known the victim and his wife. According to PW-3, he met Islam and PW-2 on 26.03.1999 and accompanied them to Murarai. He was requested to go to the local police station by Islam expressing his inability to scribe the complaint which he had written under the instruction and description of Islam and PW-2 respectively. He was also assisted by the police to write the complaint which was thereafter read over and explained to PW-2 which denoted his

signature marked as Exhibit-1. During his cross-examination, PW-3 stated to have written the complaint as per the instruction of the Officer-in-Charge of the local Police Station.

- iv. PW-4 and PW-6 were declared hostile by the prosecution.
- v. PW-5 deposed to have been acquainted with the victim and his wife. He reiterated the incident of assault to have taken place on the relevant date and time in front of the house of Malek Sk. who had expired. He witnessed the petitioner escaping from the spot with a knife in his hand. He had seen the victim Yeadul in front of the house of Malek bleeding profusely. PW-5 had transferred Yeadul to Chatra PHC on a trolley and was subsequently shifted to Rampurhat S.D. Hospital. PW-5 further testified the victim to have disclosed the petitioner to have stabbed him with a knife prior to his entry into Chatra PHC. During his cross-examination, PW-5 stated all other co-villagers witnessing the incident of Jamirul fleeing with the knife in his hand. At the relevant point of time, the victim was unconscious.
- vi. PW-7 the victim, described the conversation of disputation between him and his brother concerning usage of water from the shallow depth on the field which belonged to him. Jamirul thereafter left the field. After half an hour, the victim accompanied by his son Ripon Sk. proceeded towards his house and witnessed the petitioner standing in front of the house of Malek Sk. As PW-7 and his son approached near

him, the petitioner caught his throat and stabbed him with a knife on the left side of his abdomen out of displeasure for not granting water. Instantaneously, PW-7 lost his senses; while he was taken to Chatra PHC, he recovered his senses. He failed to state the names of the persons who took him to Chatra PHC, however, he recollected his wife to be present. On enquiry, he disclosed to her to have been stabbed by the petitioner Jamirul. PW-7 stated to the doctor treating him the name of the petitioner to be the assailant at Chatra PHC. He was subsequently referred to Rampurhat S.D. Hospital then she was discharged after 20-22 days. He was enquired of the incident by the police after few days from the date of the incident. During his cross-examination, PW-7 reiterated the narrative of the incident as in his examination-in-chief without exaggeration and contradiction.

vii. PW-8, the son of the victim who accompanied his father PW-7 (the victim) on their return towards their home, deposed in conformity with the evidence of PW-2 and PW-7. During cross-examination, PW-8 stated the uncle had left the field after an interval of 15-20 minutes. When he went in front of the house of Malek, he did not see any weapon in the hand of the accused. He further deposed to be unaware as to whether the wearing apparels of his father tainted with blood were shown to the police or not.

viii. PW-9, being the Investigating Officer, on completion of the investigation, submitted charge-sheet being No.22/00 dated

15.02.2000 under Sections 326/307 of the Indian Penal Code against the petitioner. He had also collected the final opinion of Dr. Amitava Banerjee. PW-9 further stated to have failed to collect the X-ray report of the injured person as well as to seize any blood-stained apparel of the victim.

- ix. PW-10, the Medical Officer posted at Chatra PHC on 26.03.1999, deposed to have examined the victim. PW-10 had further deposed the victim to have named Jamirul Sk., son of Habibur Rahaman, to be the assailant. The patient PW-7 had further described the mode and manner, the date and time of the assault sustained by him. PW-10 further recounted to have detected the following injury on examination:-

1. "One stab injury 1" X ½" over left iliac fossa with protrusion of small intestine with omentum.

2. Stab injury in the mesentery about 2".

- x. PW-10 further stated the injury to be exclusively occasioned by a sharp-edged weapon; if the weapon would have pierced into any other organ eventually could have resulted in his risk of life. The injury report prepared by PW-10 was marked as Exhibit-5. During his cross-examination, PW-10 had opined the injury sustained by the victim might be occasioned if any person fell down on a sharp-cutting bamboo stick depending on the position and condition of the same.

9. The evidence of injured victim corroborated by the medical report of both the doctors of Chatra PHC as well as Rampurhat S.D. Hospital indubitably established the occasion of a grievous injury sustained by the victim. There had been a dispute between the brothers over grant of water from one's field to the other to the annoyance of the petitioner. The petitioner exited from the field after an altercation with the victim. Intermittently, the victim and his son cultivated their land and their way back home, the victim had been compulsively intercepted by the petitioner by the throat and inflicted a stab injury.
10. The abdomen being a vital organ of the body accumulated and associated their organs closely interconnected; if intercepted from outside with a penetrable wound possibly could have been fatal commanding the life of the victim. PW-7 the victim had named the petitioner to have inflicted the stab injury at the initial place of treatment being Chatra PHC which had been endorsed by PW-10. Both the treating doctors PW-1 and PW-10 unanimously and concurrently opined the injury to be grievous with a fatality and/or casualty associated with it.
11. PW-3, the scribe, corroborated the evidence of PW-2, PW-7 and PW-8. PW-8, the son of the victim, unnoticed any weapon in the hands of the petitioner, however, in his examination-in-chief, he had stated his father to have been assaulted by the petitioner. PW-8 having confirmed and conceded to the fact of the victim to have been stabbed by the petitioner merely stated to have not

witnessed a weapon in the hands of the petitioner while they approached the house of Malek Sk. in front of which the petitioner was stationed.

12. It cannot be expected that the petitioner will stand in open ambience, brandishing the knife to the vision of others. The act was sudden and the weapon was definitely in possession of the petitioner hidden from public eye which was weaponised to cause the injury. The grudge of denial to provide water premeditatively provoked the petitioner to injure the victim with an intention to harm him physically. The petitioner chose an organ with intricacies and delicacies to have been ruptured with a sharp-edged weapon could have instantaneously caused death. The petitioner could not have been oblivious of the gravity and intensity of penetrating wound sustained by the victim through an injury caused by a sharp-edged knife targeting a vital organ of the body. The intention and knowledge of the petitioner to the consequences of his heinous act can be derived from the circumstances of the instant case. The petitioner left the field ahead in time for preparation in furtherance of his ulterior motive to injure the victim selecting the vital organ which if grievously affected would definitely be life-threatening. Therefore, to obliterate the proposition of ignorance on the part of the petitioner bereft of his intention to eliminate the victim of his life becomes redundant and preposterous. There had been lapse on the part of the prosecution to recover the offending weapon as well as to seize the blood-stained wearing apparels of the victim for forensic examination, however, in presence of credible

corroborative evidence of the injured witness, independent witnesses and the medical witnesses, the indictment of the petitioner cannot be doubted.

13. This Court, in a revisional application, is to primarily adjudicate as to whether there have been any illegality, perversity or biased opinion as far as the observations of both the Trial Courts are concerned. The Trial Courts have, in parity, assessed the evidence and recorded the same reasonably, interpreting the law in conclusively convicting the petitioner and this Court refrains from interfering with the same. However, more than 26 years have lapsed from the date of the incident and accordingly the sentence is modified to the extent undergone by the petitioner.

14. In view of the above discussions, the instant criminal revisional application being CRR 1841 of 2009 is dismissed.

15. There is no order as to costs.

16. Let the copy of this judgment be sent to both the Learned Trial Courts as well as the concerned Police Station for necessary information and compliance.

17. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)