

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 665 of 2009

**Abhijit Nandi @ Abhijit Nandy & Ors.
-Vs-
The State of West Bengal**

For the Appellants : Mr. Avishek Sinha

For the State : Mr. Joydeep Roy
Ms. Sujata Das

Judgment on : 30.03.2026

Ananya Bandyopadhyay, J.:-

1. This appeal is preferred against judgment and order of conviction and sentence dated 08.09.2009 and 09.09.2009 passed by the Learned Additional District & Sessions Judge, Fast Track Court No. 3, Barasat, North 24 Parganas in Sessions Case No. 25(6)2007 and Sessions Trial No. 6(8) 2008 in connection with Ashoknagar Police Station Case No. 221 dated 18.11.2003 convicting the appellants under Section 325 of the Indian Penal Code and sentencing them to suffer rigorous imprisonment for three years each and to pay a fine of Rs.1000/- each, in default to suffer further rigorous imprisonment for three months each, and further convicting the appellants under Section 304 of the Indian Penal Code and sentencing them to suffer rigorous imprisonment for 6 years and to pay a fine of Rs.5000/-, in default

to suffer rigorous imprisonment for six months, and further directing both the sentences to run concurrently.

2. The appellants stated that Ashoknagar Police Station Case No. 221 dated 18.11.2003 under Sections 341/325/308/506/34 of the Indian Penal Code was initiated against the appellants on the basis of a written complaint lodged by PW-1, Durga Rani Dutta, the mother of the deceased and the de-facto complainant of the instant case.
3. The prosecution case precisely stated as follows:-

“that on 18.11.2003 at about 00.30 hours, the son of the de-facto complainant was brutally assaulted by the appellants herein; that the assailants assaulted the deceased with lathi, wooden rod, fist and blows on the head and shoulder causing serious injuries; that when the de-facto complainant tried to save her son, she was thrashed on the ground and sustained injuries; that the de-facto complainant with the help of some other persons took the deceased to Habra Hospital wherein the deceased succumbed to his injuries at 6.45 hours on that very day.”

4. On the basis of the aforesaid written complaint, the investigation ensued.
5. On completion of the investigation, Charge-sheet being No.17 dated 31.01.2004 under Sections 341/325/308/34 of the Indian Penal Code and adding Section 304 of the Indian Penal Code was submitted against the present appellants to which they pleaded not guilty and claimed to be tried.
6. The Learned Advocate representing the appellants submitted as follows:-
 - i. PW-1/Durga Rani Dutta, the *de facto* complainant being the mother of the deceased deposed to the effect that on hearing shouts she went out of

her house and found the deceased was being beaten by the appellants who were previously taking *khichri* at *de facto* complainant's house. Hence from the beginning she was inside the house failing to witness the initiation of the so-called skirmish. She tried to save her son owing to which she lost her two teeth. Nothing was on record to substantiate such claim as neither any doctor was examined nor any injury report was produced to prove the injury so happened. The statement herein indicated the appellants were the friends of the deceased who were having food together on the occasion of the puja showing a considerable merry making which thereby failed to give a reasonable explanation for the sudden act to assault the deceased supporting the prosecution matrix.

- ii. In the cross-examination she deposed a number of neighbour's names, none of whom were examined by the Investigating Officer withholding of best evidence should go against the prosecution. She denied the contentions of her son being antisocial and drunkard. Though the *post mortem* report showed the presence of alcohol in the abdomen and PW-2 corroborated the same in her statement. Further PW-5, categorically stated the deceased had criminal antecedents. She deposed she took the victim alone to the hospital where she did not mention any appellant's name at the hospital. Non-disclosure of the name of the assailants at the earliest opportunity clearly cast doubt upon the prosecution story. This witness had failed to identify appellant Ujjal Dey. She had admitted the deceased was an accused in a theft case. She had further deposed she

could not recall the scribe of the complaint which thus questioned the veracity of the complaint and the manner and circumstance under which the same was lodged.

- iii. PW-2 Dr. Subhasish Chatterjee, the doctor who examined the deceased deposed to the effect that the deceased was alive when he was brought to the hospital but was intoxicated and unconscious. The injuries found on the victim were a lacerated injury and head injury.
- iv. In the cross-examination he thoroughly deposed there were three others present with the victim which contradicted PW-1's statement. The age of injury was not mentioned in the medical report submitted by him. Most importantly this witness had accepted the defence contention that the injuries to the deceased might have been sustained due to fall being intoxicated. Thus the witness herein clearly deposed the death of the deceased might have been caused owing to the injuries from falling down under the influence of alcohol. It is a settled legal position when two views were possible one favouring the accused should be taken into consideration.
- v. PW-3/Sova Dutta, in spite of being a neighbour of the same area deposed she heard of deceased's death which occurred on the street in their locality which indicated her being hearsay evidence and did not support the prosecution case in any manner. She did not identify the appellants.
- vi. PW-4/Jagat Dutta claimed himself to have no information about the death in the locality and did not help the prosecution cause in any manner.

- vii. PW-5/Anup Dutta deposed unequivocally that he knew the deceased who had criminal antecedents. He had further stated that he was not aware of anything related to the death of the deceased. Hence, it did not support the prosecution case in any manner.
- viii. PW-6/Manik Majumder deposed to the effect that he only heard about the deceased's death on his return from the duty. The incident allegedly took place in front of the witness's house, though this witness did not notice anything whatsoever which pointed towards the fabrication of place of occurrence. Evidence of this witness also does not support the prosecution case.
- ix. PW-7/Shyamal Sarkar deposed he knew about the victim but he failed to throw any light on the occurrence as he did not have any knowledge about the same.
- x. PW-8/Prasanta Sen admitted that visiting the police station on account of his job, he had drafted the complaint on the request of the police officer. PW-1 could not recall him in her statement which thus questioned the manner in which the complaint was drafted and lodged which formed the basis of any criminal proceedings.
- xi. PW-9/Sujit Dutta deposed that he knew about the victim's death but he failed to throw any light on the occurrence as he did not have any knowledge about the same and did not support the prosecution case.
- xii. PW-10/Amal Bhowmick deposed he knew about the death of the victim and was unaware as to how it occurred.

- xiii. PW-11/Jayanta Das, deposed he filled the FIR in his own handwriting and signed the same which is marked as Exbt.-3, 3/1.
 - xiv. PW-12/Saroj Kumar Debnath, Investigating Officer deposed on the death of the victim, he placed the case before the Learned Court to add Section 304 of the Indian Penal Code though he submitted the charge-sheet against the appellants under Sections 341/325/308/34 of the Indian Penal Code.
 - xv. He had admitted in his cross-examination that on hearing the death of the victim, he did not go the hospital to conduct an inquest and never perused or sought for the inquest report to support the investigation as thoroughly conducted therein by him.
 - xvi. It was to be borne in mind that none of the witnesses except PW-1 had supported the prosecution case. In spite of the same, none of them were declared hostile and were confronted with their statement under Section 161 of the Code of Criminal Procedure.
 - xvii. Herein the majority statements as provided by the witnesses failed to give a plausible explanation for the incrimination of the present appellants thus creating a possible scene wherein the perennially intoxicated victim fell down under the influence of alcohol hurting his head and finally dying consequently at the hospital due to the injuries.
7. The Learned Advocate representing the State submitted the prosecution was able to prove its case based on corroborative evidence of the prosecution witnesses supported by the medical evidence and the appeal should be dismissed.

8. A circumspection of the evidence of the prosecution witnesses revealed as follows:-

- i. PW-1, the *de facto* complainant deposed on the date of Kartick Puja at about 11/11.30 p.m. in the evening, her son was having '*khicuri*' with his friends. Her son/victim went out of their house. Thereafter, she heard shouts and noises in the street, she went out of her house and saw her son Rama was being beaten by all those accused persons who had been taking '*khichuri*' prior to the incident at her house with Rama. She tried to save her son but, she was also beaten by them and lost two teeth by such assault. The assault continued on her son who became senseless and seized to move ultimately. However, after rescuing her son, she along with others took him to Habra State General Hospital. However, her son expired there ultimately. Those friends of her son who assaulted him as known to her and they were Prasanta Ghosh, Avijit Nandi, Kalu Roy Chowdhury, Toton Chakraborty, Debasish Dey. PW-1 identified them in Court. She was taken to the police station by the police and she lodged a written complaint there. PW-1 could not state who drafted the written complaint there. PW-1 further deposed her written complaint contained the occurrence connecting the said incidence. PW-1 further identified her signature on the written complaint marked as Exhibit-1/1 and the written complaint is marked as Exhibit-1.
- ii. PW-1 during cross-examination deposed her son was bachelor and his one hand was amputated. PW-1 further stated Hijal Pukuar is 2 and half miles from her house and Ashuotsh Colony is approximately 2 and half

miles from her house. In between both the places, many houses exist. PW-1 stated in their place there are small plots of them as given by the government. Koko Majumdar's house was situated two houses after her house. Ramkrishna Dutta's house was adjacent to her house like Chandramani Das also. Niranjana Shah's house was situated at a place after the pathway behind her house. All those persons were not seen by her if present at the time of the occurrence because of such late hours of the night. There were many persons present on the spot but she could not recognize them. PW-1 stated at the time of such assault her son was wearing shirt and pant. PW-1 deposed Habra Hospital is near to Habra P.S. Her son was an accused in a theft case of green coconut. PW-1 alone accompanied her son to the hospital. At the time of the visit of the police officer at Habra Hospital she disclosed the entire incident. Approximately three hours, she stayed at the Habra Hospital. PW-1 was not aware if her son was drunk as revealed in his post-mortem examination. PW-1 further stated due to the assault, her son's wearing apparels got severely blood stained. The mud was blood stained also. PW-1 did not know if Ratan Karmakar and Dipak Das accompanied her and her son to the hospital. She was confused having seen the incident. Though many persons were present, she was unable to count. She could not recall about her state of affairs at the time of filing the written complaint. She could not recall who drafted her complaint.

- iii. PW-2, deposed on 18.11.2003 he was posted as Medical Officer at Habra State General Hospital. On that he examined the patient namely Rama

Dutta, who was brought by his mother and others. PW-2 found the following injuries as mentioned in his report marked as Exhibit-2. PW-2 identified his signature on his report marked as Exhibit-2/1. PW-2 further deposed the victim's injuries were found as lacerated injury and head injury, as detailed in his report, inflicted by some blunt object. The injured victim's condition was very serious and the injured victim was alcoholic and unconscious.

- iv. PW-2 in his cross-examination disclosed he mentioned in his report that along with his mother, three other persons also accompanied the injured victim. The age of injury was not mentioned in the report. PW-2 deposed that the patient might have sustained such injuries on falling being alcoholic and intoxicated. It was also possible of being manhandled for an alcoholic person creating disturbances in an unruly manner.
- v. PW-3 in her deposition stated she did not know the victim/Rama Dutta as her neighbor. She could not recognize the accused persons. She only learnt that Rama had died in an incident occurring on the street as learnt from locality, whose name she could not recall.
- vi. PW-4 deposed he knew Rama Dutta as his neighbor and he does not know anything about the case.
- vii. PW-5 deposed though he used to know Rama Dutta, a local person having criminal antecedents, and yet, he does not know anything about his death as he was not acquainted with the concerned occurrence.

- viii. PW-6 deposed the victim/Rama Dutta one local person was killed in the past and he heard that news on return from his duty from the local municipality. He did not know how and why he died.
- ix. PW-7 deposed that the victim/Rama Dutta, a local person was killed, however PW-7 did not know who killed him and he was killed.
- x. PW-8, scribe of the written complaint, identified his signature on the written complaint marked as Exhibit-1/2. On accounting of his job as a law clerk of his visit to the police station at Ashosknagar and he drafted the written complaint at the request of the police officer.
- xi. PW-9 and PW-10 deposed they have no knowledge about death of the victim.
- xii. PW-11, Jayanta Das, A.S.I. of Police deposed on 18.11.2003 he was posted at Ashoknagar P.S. as an A.S.I. On that day, on receipt of one written complaint from one Durga Rani Dutta, he registered Ashoknagar P.S. Case No. 221 dated 18.11.2003 under Sections 341/325/308/506/34 of the Indian Penal Code. PW-11 identified his endorsement on the FIR with his signature marked as Exhibit-1/3. and his handwriting and signature on the filled up formal FIR marked as Exhibit-3 and Exhibit-3/1. PW-11 also indentified the signature of the then Officer-in-Charge, S.I. Jayanta Chatterjee who directed S.I. Soroj Kumar Debnath to conduct the investigation, marked Exhibit-3/2. During cross-examination PW-11 disclosed he did not know any personal knowledge about the occurrence.

xiii. PW-12, Investigating Officer deposed on 18.11.2003 he was posted at Ashoknagar Police Station as directed by the Officer-in-Charge he took up the investigation of Ashoknagar P.S. Case No. 221 dated 18.11.2003. After the death of the victim, Rama Dutta, PW-12 placed before the Court to add Section 304 of the Indian Penal Code in the ongoing police case. During the investigation, PW-112 visited the place of occurrence, examined witnesses and recorded their statements under Section 161 Cr.P.C. PW-12 arrested the appellants and forwarded the Memo of Arrest before the Learned A.C.J.M. Court. PW-12 collected the post-mortem report. After completion of his investigation, PW-12 submitted charge-sheet against the appellants under Sections 341/325/308/34 of the Indian Penal Code. PW-12 identified the post-mortem report marked as Exhibit-4.

xiv. PW-12 during cross-examination deposed he did not peruse and even sought for the inquest report, if prepared on the dead body of the deceased.

9. PW-1, the *de facto* complainant and the mother of the victim furnishes a vivid and immediate account of the occurrence. On the night of 'Kartick Pooja', at a late hour, her son Rama Dutta, who had been in the company of the accused persons partaking *Khichdi*, stepped out. Shortly, thereafter, alarmed by commotion emanating from the street, she rushed out and witnessed her son being subjected to a concerted assault at the hands of the appellants. Her attempt to intervene was met with violence resulting in her sustaining injuries including the loss of two teeth. The assault upon the

victim persisted until he collapsed into a senseless state. The narration bears the imprint of spontaneity and proximity to the occurrence culminating embellishment or contrivance.

10. Her testimony further gained assurance from the fact that she promptly accompanied the injured to Habra State General Hospital where he succumbed. The presence of the accused persons not only asserted but reaffirmed through dock identification. The minor inability of PW-1 to recall the scribe of the written complaint or certain peripheral details is but a natural consequence of the trauma she endured and did not detract from the substantive worth of her evidence.
11. During cross-examination, though PW-1, considered the presence of several persons at the scene, whom she could not identify, such admission does not dilute her categorical assertions regarding the participation of the appellants. Rather, it lends an element of candour to her deposition. The suggestions regarding the victim's alleged intoxication, even if accepted, *arguendo* does not efface the positive evidence of assault witnessed by her.
12. The medical testimony of PW-2, the attending Medical Officer, provides an objective anchor to the prosecution case. The injuries noted lacerations and head injury caused by a blunt object are consistent with the manner of assault as described by PW-1. Though PW-2, in cross-examination, adverted to the possibility of injuries being sustained due to a fall in an intoxicated condition, such speculative suggestion cannot eclipse the direct ocular testimony of an eye witness. Medical evidence is intended to corroborate not

supplant, credible ocular evidence and in the present case, it does not contradict the prosecution version.

13. The remaining witnesses viz. PW-3 to PW, PW9 and PW 10 are either formal or here say witnesses who do not materially advance the prosecution case. Their inability to identify the assailants or recount the incident does not erode the prosecution's foundation which rests primarily upon the testimony of PW-1.
14. PW-8 the scribe of the written complaint lends procedural authenticity to the initiation of the criminal process while PW-11 establishes the registration of the FIR in due course of Law. The Investigating Officer PW-12 delineates the investigative steps undertaken including visiting the place of occurrence, recording statements affecting arrest and collecting the *post mortem* report. The addition of Section 304 of the Indian Penal Code upon the death of the victim reflects a natural progression of the investigation.
15. At this juncture, it becomes imperative to assess whether the ingredients of Section 325 of the Indian Penal Code stand satisfied so as to sustain the conviction. Section 325 of the Indian Penal Code postulates voluntary causing of grievous hurt. The evidence on record overtly demonstrates that PW-1 herself suffered grievous injury, namely the loss of two teeth as a direct consequence of the assault perpetrated by the appellants. The said injury squarely falls within the ambit of grievous hurt as contemplated under Section 320 of the Indian Penal Code. The participation of the appellants in inflicting such injury is established through the unimpeached testimony of PW-1. The assault was neither accidental nor isolated, but part

of a concerted act of violence, attracting the principle of common intention under Section 34 of the Indian Penal Code.

16. The defence has sought to capitalise on alleged inconsistencies, the possibility of intoxication of the victim and the absence of independent corroboration. Such submissions, though not devoid of ingenuity, failed to dislodge the intrinsic reliability of PW-1's testimony. It is well-settled that conviction can rest upon the testimony of a single witness if found genuinely trustworthy. The evidence of PW-1 passes this test with commendable assurance. The argument that the injuries could have been sustained by a fall is too tenuous and speculative to merit acceptance in the face of direct evidence. Equally the non-examination or non-support of other witnesses does not debase the prosecution case when the principle witness stands firm and credible.

17. Section 325 of the Indian Penal Code postulates punishment for voluntarily, causing grievous hurt. To sustain a conviction, thereafter, the prosecution must establish:-

- a) the causing of hurt,
- b) that's such hurt answers, the description of hurt under Section 320 of the Indian Penal Code and
- c) that the act was done voluntarily i.e. with the intention or knowledge as contemplated in Section 321 of the Indian Penal Code.

18. Where multiple accused act conjoint under section 34 of the Indian Penal Code would further require proof of a shared common intention.

19. The evidence of PW-1, the mother of the victim and an injured witness unequivocally established when she intervened to rescue her son from the assault perpetrated by the appellants, she herself was physically attacked. Her deposition that she was beaten by the accused persons during such intervention constitutes direct ocular proof of hurt being inflicted upon her. This part of the prosecution case remains unshaken in examination. No suggestion has been successfully elicited to probabalise accidental injury or self infliction. The fact of assault upon PW-1 is therefore firmly proved.
20. PW-1 has categorically stated as a consequence of the assault, she lost two teeth. Under Clause VII of Section 320 of the Indian Penal Code "*fracture or dislocation of a tooth*" is expressly recognised as "*grievous hurt*".
21. The injury described by PW-1, namely loss of teeth due to assault, squarely attracts this statutory classification. The nature of injury is neither trivial nor superficial. It carries a permanent dimension and falls within the legislatively defined category of grievous hurt. Thus, the second ingredient stands satisfied on the strength of the injured witness's testimony which ascribed heightened evidentiary value.
22. The manner of occurrence as unfolded by PW-1 revealed the appellants were actively engaged in assaulting the victim and upon her intervention diverted upon her with coercively. The assault was not inadvertent but deliberate and continued until injuries were caused. The nature of the act, beating a person with sufficient force to cause loss of teeth clearly indicated the requisite intention or at the very least knowledge that such act was likely to cause grievous hurt. The surrounding circumstances, including the prior

presence of the accuseds with the victim and their concerted conduct during the incident, exclude any hypothesis of accident or absence of *mens rea*.

23. PW-1's testimony attributes the assault collectively to all the accused persons. The incident was not an isolated act by a single individual but a group assault in which each participant shared the common intention to inflict violence. The simultaneous participation of the appellants, their unified conduct in assaulting both the victim and PW-1 and the absence of any dissociation on the part of any accused persons clearly attract Section 34 of the Indian Penal Code. Each appellant is vicariously liable for the grievous hurt caused.

24. To sustain a conviction under Section 304 of the Indian Penal Code, the prosecution must establish the death of a human being and such death to have been caused by an act of the accused done with an intention to cause death or to cause such bodily injury as was likely to cause death or knowledge that the act was likely to cause death. Where intention to cause death is not explicitly discernible the case may nonetheless fall within Part II of Section 304 of the Indian Penal Code if knowledge of the likelihood of death is attributable.

25. The death of Rama Dutta is not in dispute. The evidence of PW-1 established that he was found being relentlessly assaulted by the appellant soon thereafter collapsing to unconsciousness. He was immediately removed to the hospital, where he succumbed. PW-2 the Medical Officer found lacerated injuries and significantly a head injury inflicted by a blunt object with the

victim in an unconscious and critical condition. The medical findings dovetail seamlessly with the ocular version.

26. The sequence from assault to unconsciousness to death formed an unbroken chain establishing a direct causal nexus between the act of the appellants and the demise of the victim. The assault as described by PW-1 was collective and concerted which sustained over a period and directed with force to render the victim senseless. The site of injury particularly the head, a vital part of the human body, assumed determinative significance for assault aimed at such a vulnerable region cannot be trivialised as a mere scuffle or impulsive act devoid of consequence. The ferocity of the attack is further evidenced by the fact that even PW-1 one upon intervening was not spared and suffered grievous injury. The evidence may not irresistibly point to a preconceived intention to cause death in the strictest sense. There is no material suggesting prior enmity of such degree or a calculated design to eliminate the victim. However the law does not demand proof of such intention in all cases. It suffices if knowledge can be attributed. In the present case repeated blows were inflicted on a vital part of the body being the head which was targeted and the assault continued until the victim became unconscious. From these established facts it is inescapable that the appellant knew that such acts were likely to cause death. A reasonable person placed in the position of the assailants would be fully aware of the fatal propensity of such conduct. Thus even in the absence of specific intention to cause death the case squarely falls within Section 304 Part II of

the Indian Penal Code grounded in knowledge of the likelihood of consequence.

27. The defence has attempted to introduce the possibility that the victim being allegedly intoxicated may have sustained injuries by falling. This suggestion however remains speculative and unsupported. The nature of the injuries particularly the head injury caused by a blunt force coupled with the direct ocular testimony of PW-1 effectively dislodges such a hypothesis. The multiplicity and seriousness of injuries cannot be reconciled with a mere accidental fall. The law does not countenance conjecture as a substitute for evidence particularly when weighed against the credible eyewitness account. The assault was perpetrated by multiple accused persons acting in unison. There is no evidence of any individual dissociation. Their conduct reveals a community of purpose and prearranged or contemporaneous meeting of mind sufficient to attract Section 34 of the Indian Penal Code. Each appellant is there for liable for the fatal act irrespective of the specific blow attributed.

28. Section 325 of the Indian Penal Code penalises the act of voluntarily causing hurt. The prosecution is required to establish infliction of hurt; that such hurt is grievous within the meaning of Section 320 of the Indian Penal Code and that the act was done voluntarily with the requisite intention or knowledge under Section 321 of the Indian Penal Code read with Section 34 of the Indian Penal Code where applicable.

29. In the present case, while the injury to PW-1 offered corroboration, the gravamen of the prosecution case rest upon the injuries sustained by the

deceased Rama Dutta, which must be examined as constituting grievous hurt within the statutory framework.

30. PW-1 an eye-witness of unimpeachable proximity has consistently deposed that her son was being assaulted by all the accused persons on the street. The assault was neither fleeting nor casual, rather it was persistent and of such intensity that the victim ultimately collapsed and became senseless. Her testimony being that of a natural witness who rushed to the scene upon hearing commotion, inspired confidence. The fact that she herself was injured in the course of intervention further fortified her presence and assurance to her version regarding the assault upon the deceased.

31. The medical evidence of PW-2 assumed central significance at this stage. The doctor found lacerated injuries and head injury caused by a blunt object and the condition of the victim being very serious and unconscious.

32. A head injury of such severity, resulting in unconsciousness and subsequently culminating in death transcends the realm of simple hurt. Such injury squarely falls within the ambit of grievous hurt particularly under clauses relating to injuries endangering life.

33. Even if one were to momentarily dissociate the eventual death from the intention of the assailants, the nature of injuries inflicted especially the head injury clearly demonstrated that caused grievous hurt and life endangering character.

34. The circumstances in which the assault was perpetrated negated ambiguity regarding intention or knowledge. The appellants acting in concert, subjected the victim to a sustained battering with blunt objects. The

targeting of a vital part of the body viz. the head is indicative of knowledge, that such acts were likely to cause grievous hurt if not more severe consequences.

35. The plea suggested through cross-examination that the victim might have sustained injuries due to a fall in an intoxicated condition is conjectural. It neither finds support in the ocular testimony nor reasonably explains the multiplicity and nature of injuries recorded by PW-2. Thus, the voluntary infliction of grievous hurt stands established.
36. The conduct of appellant assaulting the victim and thereafter turning upon PW-1 when she entered demonstrated a shared design and continuity of action. Section 34 of the Indian Penal Code is therefore clearly attracted rendering each appellant liable for the acts done in furtherance of their common intention. The injury to PW-1, namely the loss of two teeth, though independently constituting grievous hurt assume corroborative significance. Her injury also eliminates any doubt regarding her presence at the scene and lends intrinsic credibility to her testimony regarding the assault on the deceased.
37. The prosecution evidence when cohesively appreciated establishes a direct and consistent ocular account of the assault upon the deceased, medical corroboration indicating grievous life endangering head injury caused by blunt force, voluntary and intentional infliction of such injury and concerted action of all appellants attracting Section 34 of the Indian Penal Code.

38. Even if the ultimate charge travels beyond Section 325 of the Indian Penal Code, owing to the death of the victim, the foundational facts incontrovertibly satisfy the ingredients of voluntarily causing grievous hurt.
39. The injuries sustained by the deceased victim form the central axis of the prosecution case and clearly fulfilled the statutory requirements of Section 325 of the Indian Penal Code. The evidence is neither speculative nor deficient. It is consistent and supported by medical findings. Accordingly the offence under Section 325 of the Indian Penal Code stands proved against the appellants not warranting judicial interference with the impugned order of conviction.
40. The incident related to the year 2003 and there has been a lapse of more than 23 years. Accordingly, the sentence is reduced to the extent of imprisonment suffered by the appellant.
41. In view of the above discussions, the sentence is reduced to the extent of incarceration suffered by the appellant nos. 2-6. The instant criminal appeal against appellant no. Abhijit Nandi @ Abhijit Nandy stands abated since the appellant expired on 09.08.2017.
42. There is no order as to costs.
43. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
44. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)