

S.T.6 (12) 2016

S.C.107 o 2012 (CIS No. 219 of 2014)

**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE,
(FAST TRACK) 4th COURT, BARRACKPORE,
NORTH 24 PARGANAS**

Present : Sri Arup Kumar Das (WB000625)
Additional District & Sessions Judge,
Fast Track 4th Court, Barrackpore,
North 24 Parganas

Sessions Case no. 107 of 2012

Sessions Trial no. 6 (12) 2016

G.R. no. 2207 of 2011

(Arising out of Jagaddal P.S. Case No.491 dated 29.04.2011 under section
143/147/308/341/448/323/326/427/379/506/34 of IPC

State of West Bengal

Vs.

Chandra Thakur

Dipankar Thakur

Krishna Thakur

Mamata Thakur

..... accused persons.

Learned Advocate for the State : Mr. M.M. Kamal.

Learned Advocate for the accused perons: Sri Rabindranath Bhattacharyya

Charge under Section 143/147/308/341/448/323/325/506/34 of IPC.

Date of delivery of Judgement : 31.07.2023

J U D G E M E N T

The prosecution case, in brief is that on 29.04.2011, one Lalbabau Shaw filed a petition of complaint u/s.156(3) Cr.P.C before the Court of Ld. ACJM, Barrackpore to the effect that on 24.04.2011 at about 07.30 a.m the accused persons namely Chandra Thakur, Dipankar Thakur, Krishna Thakur and Mamata Thakur armed with crowbar and wooden lathi trespassed into his house and assaulted him by lathi. As a result, the complainant sustained bleeding injuries on his back and various parts of his body. The accused persons also assaulted the wife of the complainant namely Purnima Shaw by iron rod on her left had side and abdomen and due to such assault Purnima Shaw sustained fracture injury on her left hand

S.T.6 (12) 2016
S.C.107 o 2012 (CIS No. 219 of 2014)

...2...

side and bleeding injury on her body. When Purnima Shaw fell down on the ground, the witnesses came there and saved her. The accused persons damaged the household articles of the complaint worth Rs.5,000/-. The accused Chandra Thakur, Dipankar Thakur and Krishna Thakur snatched gold chain from Purnima Shaw. The accused persons also threatened the complainant and his family members. It is also alleged that the accused Mamata Thakur took a sum of Rs.3,700/- from the drawer and also took wrist watch and gold necklace/chain from the dressing table of the complainant. A GDE being GDE No. 1567 dated 14.04.2011 was lodged at Jagaddal P.S regarding the incident. The complainant and his wife were admitted at Bhatpara State General Hospital for three days for their treatment. The complaint prayed for sending the petition of complaint to the I.C, Jagaddal P.S u/s.156 (3) Cr.P.C for starting a specific case against the accused persons treating the petition of complaint as FIR. The prayer of the complaint was allowed by the Ld. ACJM, Barrackpore and on receipt of the petition through the court of Ld. ACJM, Barrackpore police started Jagaddal P.S. Case No.491/11 dated 15.09.2011 u/s. 143/147/308/341/448/323/326/427/379/506/34 IPC against the accused persons. After completion of investigation charge sheet was submitted against four accused persons u/s. 143/147/308/341/448/323/325/506/34 IPC.

The case being exclusively triable by the Court of Sessions, Ld. ACJM, Barrackpore after taking cognizance of the offences committed the case to the Court of Ld. Additional Sessions Judge, 1st court, Barrackpore who subsequently transferred the case to this court for trial and disposal.

Charges against the accused persons were framed u/s. 341/448/325/308/427/34 of IPC. They pleaded not guilty and claimed for trial.

In their explanation u/s.313 Cr.P.C the accused persons denied the prosecution story and pleaded innocence.

...3...

Points for consideration:

The points that arise for my consideration are as follows:-

- i) Whether the accused persons has committed the alleged offences punishable under section u/s. 341/448/325/308/427/34 of IPC?
- ii) Whether the case against the accused persons stands established beyond reasonable doubt ?

Decision with reasons:

In order to prove this case the prosecution examined as many as three witnesses. The accused person did not adduce any evidence in defence, either oral or documentary.

P.W. 1 is the defacto complainant. He deposed that Lal Babu Shaw. He deposed that on 24.04.2011 at about 7.30 a.m in the morning he entered into the house situated at 84/12/1, Golghar Mulajore Road. Thereafter Chandra Thakur, Dipankar Thakur, Krishna Thakur and Mamata Thakur started hurling abusive languages towards him. They also entered into his room with bamboo, Sabal, one wooden stick.They also assaulted him. They assaulted him on his forehead, back by fists and blows on all over his body. PW1 further deposed that hearing hue and cry his wife rushed to the spot. His wife is a handicapped person. A plate was inserted on her left hand. Accused Dipak Thakur hit her on her left hand with the help of sabal and his wife fell down on the ground with bleeding condition. His son and daughter rushed there in order to dispersed the accused persons there from. Thereafter nearby people came there and they rescued them. PW1 proceeded to depose that they are Shyam Chowdhury, Md.Faruque AND Gangotri Devi. PW1 proceeded to depose that Mamata

...4...

Thakur entered in his room and other accused persons snatched her gold neck chain and gold finger ring. PW1 further deposed that accused Mamata Thakur damaged the dressing table of his room and she took one gold necklace, Rs.3,700/- and one Sonata watch therefrom. Thereafter he went to local police station and diarised the matter and sent them to local hospital at Golghar They were treated there. His wife admitted there for three days. The police person of the P.S did not do anything. Thereafter he lodged a complaint before Ld. ACJM, Barrackpore u/s.356 (3) Cr.P.C. PW1 proved the written complaint which was marked as Exhibit-1 (with objection) and the signature of PW1 on the written complaint were collectively marked as Exhibit-1/1. PW1 identified all the accused persons on dock.

PW2 is Munni Devi. She deposed that she knows nothing regarding the facts of this case. She works as a maid servant in the house of others. She was not interrogated by the I.O in connection with this case.

PW3 is Purnima Shaw. She deposed that she knows Hindi and Bengali language. The incident took place on 24.04.2011 at about 7.30 a.m in her house situated at 84/12, Golghar Mulajore Road under P.S. Jagaddal. At the time of incident her husband Lalbabu Shaw was returning to home after morning walk. When he was entering in their home at that time accused Chandan Thakur, Dipankar Thakur, Krishna Thakur and Mamata Thakur started to abuse him in filthy languages. Accused Chandan was armed with bamboo, accused Dipankar was armed with crowbar, accused Mamata was armed with a wooden stick. At that time accused Krishna Thakur abused her husband in filthy languages and other accused persons started to assault her husband with bamboo, wooden stick and crowbar. She tried to save her husband. Then accused Dipankar assaulted her on her hand with a crowbar. PW3 further deposed that accused Mamata entered into her room and theft away cash of Rs.3,700-, a wrist watch, a gold necklace. Accused Mamata also broke the dressing table of her room. She sustained injury and pain on her hand. On

...5...

hearing hue and cry her son and daughters came to the spot and on seeing them you and other accused persons fled away. Thereafter her neighbours namely Shyam Chowdhury, Rafik, Gangatri and Anjai came to her house on hearing shout and they took her to Jagaddal Police Station. Police of Jagaddal P.S instructed her to go to hospital situated at Golghar. Thereafter her neighbours whose names she stated earlier took her to Golghar Hospital, Jagaddal. She was admitted in the hospital and stayed there for three days. After three days she was released from hospital. Thereafter she continues her treatment by private doctor. PW3 identified accused Dipankar Thakur in the courtroom and claimed that she could have identified other accused persons of this case as they had been present in the court room. Do you have anything to say?

According to the petition of complaint the accused persons assaulted the complainant with Lathi. In his evidence the complainant (PW1) deposed that the accused persons assaulted him by fists and blows at the time of incident. PW3, the wife of the complainant deposed that except accused Krishna Thakur the other accused persons assaulted the complainant with bamboo, wooden stick and crowbar. So, it appears that there are serious contradictions and inconsistencies in the evidence of witnesses regarding weapon of assault. However, in the petition of complaint it is stated by the complainant that the accused persons assaulted his wife (PW3) with iron rod but in their evidence both PW1 and PW3 deposed that she was assaulted by the accused persons with crowbar. In the petition of complaint it is stated that the complainant and his wife were treated at Bhatpara State General Hospital but in their evidence both PW1 and PW3 deposed that they were treated at Golghar Hospital. No doctor of Bhatpara State General Hospital or Golghar Hospital has been examined by the prosecution. No injury report of the alleged injured person has been produced or marked as Exhibit by the prosecution. So, it has not been proved by the medical evidence that on the alleged date of incident PW1 and PW3 sustained injuries. The nature of the alleged injuries have also not been

...6...

proved. No General Diary as stated by the complainant in the petition of complaint has come before this court. From the charge sheet it appears that the alleged weapons were not seized by the I.O. PW1 has stated in his evidence that at the time of incident his son and daughter came there. Thereafter Shyam Chowdhury, Md. Faruque and others came to the P.O. The prosecution has failed to examine any of this witnesses. PW2 who is an alleged eye witness did not support prosecution case. PW3 deposed that after the incident her neighbours namely Shyam Chowdhury, Rafique, Gangotri and Anjali came to her house on hearing sought. None of this witnesses were examined by the prosecution. In my opinion, the evidence adduced by the prosecution is not sufficient to hold that on the alleged date and time of incident the accused persons committed the alleged offences.

Thus considering the evidence on record, I hold that the prosecution has failed to prove the charge framed against the accused persons beyond all shadow of reasonable doubt and as such the accused persons are entitled to be acquitted from this case on benefit of doubt. Hence, it is,

O r d e r e d

that the accused person, namely, Chandra Thakur, Dipankar Thakur, Krishna Thakur and Mamata Thakur are found not guilty to the charges punishable u/s. 341/448/325/308/427/34 of IPC and as such they are acquitted u/s 235(1) of Cr.P.C. They be set at liberty forthwith. They are discharged from their respective bail bond. Their sureties are also discharged. Seized alat, if any, be destroyed after the period of appeal.

** In compliance with the direction issued by the Hon'ble High Court, Calcutta on 29.3.2022 in CRA no. 266 of 2020 with CRAN no. 1 of 2020 in the case of Sabitri Bhunya Vs. State of West Bengal and others, let a copy of this judgment of acquittal be sent to the District Magistrate, North 24 Parganas and to the Secretary District Legal Services Authority for due

S.T.6 (12) 2016
S.C.107 o 2012 (CIS No. 219 of 2014)

...7...

intimation to the victim as defined u/s. 2(wa) of the Code of Criminal Procedure.

Dictated & Corrected by me

A.D.J. (Fast Track) 4th Court .

Additional Sessions Judge,
(Fast Track) 4th Court, Barrackpore