

WBCS010003672019



Presented on : 05-03-2019

Registered on : 05-03-2019

Decided on : 31-03-2026

Duration : 7 years & 26 days

Before the Court of Additional Sessions Judge,
Fast Track Court No.1, City Sessions Court, Calcutta

Sessions Case No.19 of 2019

TR No. 13 of 2019

CNR NO. WBCS01 - 000367 - 2019

State of West Bengal

v.

Siraj Roy, Susmita Roy, Piyali Bhattacharjee, Bipsi @ Riya Karmakar, and
Somnath Roy (Accused persons)

Arising out of Amherst Street PS Case No. 343 dated 25.10.2016 u/s
376/509/506/114 of IPC

Koustuv Mukhopadhyay

(JO Code-WB 01059)

Addl. Dist & Sessions Judge,
Fast Track Court No.1,
Bichar Bhawan, Calcutta.

Order No.24, dated 31.03.2026:

1. Both sides are present, represented by their respective Ld. Advocates. The record is taken up for hearing of an application under Section 232 of the Cr.P.C., filed on behalf of the accused

persons, praying for their acquittal on the ground that no incriminating material has surfaced from the evidence of PW1 and PW2, who are the de-facto complainant/victim and her husband respectively, and that their testimony renders the prospect of conviction untenable.

2. The said application was filed after the examination of PW2. It appears that the prosecution has raised only a formal objection to the said petition.
3. Ld. Public Prosecutor submits that the victim (PW1) and her husband (PW2), being the prime witnesses, appear to have arrived at some form of mutual understanding with the accused persons, and are no longer interested in proceeding with the case, which inevitably operates to the advantage of the accused, who are entitled to the presumption of innocence.
4. It is further submitted by the Ld. Public Prosecutor that in view of the evidence of the prime witnesses, the prosecution case is likely to meet the same fate, as it has not been substantiated by reliable testimony.
5. Upon hearing both sides, this Court proceeds to consider the merits of the application under Section 232 of the Cr.P.C.

PROSECUTION CASE

6. The instant case originates from the statement of the victim/de-facto complainant, who subsequently deposed as PW1, given before SI Pratik Sarkar of Amherst Street Police Station, which was later treated as a written complaint.

7. The gravamen of the prosecution case is that on 10.10.2016 at about 16:00 hours, at premises no. 16, Biplabi Pulin Das Street, Kolkata-09, the accused persons, namely Siraj Roy, Susmita Roy, Piyali Bhattacharjee, Bipsi @ Riya Karmakar, and Somnath Roy, in furtherance of their common intention, insulted the modesty of the de-facto complainant/victim by uttering obscene words and also criminally intimidated her by threatening injury to her person.
8. It is further alleged that the accused Siraj Roy committed rape upon the victim on different dates at his godown against her will by putting her in fear of dire consequences, and that the other accused persons abetted and instigated the commission of such acts.
9. On the basis of the said complaint, a formal FIR was registered against the aforesaid accused persons.
10. Upon completion of investigation, charge-sheet was submitted against them, and they were sent up for trial.

APPRECIATION OF EVIDENCE

11. Upon careful scrutiny of the materials on record, it appears that the prosecution evidence has substantially concluded.
12. This Court now proceeds to assess the evidence adduced by the prosecution witnesses.
13. From the evidence of PW1 and PW2, the following aspects emerge:
 - (i) PW1, the de-facto complainant/victim, during her cross-examination, stated that the alleged incident took place long ago and she is unable to recollect the exact events.

(ii) She further stated that the FIR was lodged due to a misunderstanding and that she has no objection if the accused persons are acquitted.

(iii) PW2, the husband of PW1, also stated during cross-examination that the case was initiated due to a misunderstanding and that he has no objection to the acquittal of the accused persons.

14. Thus, the evidence of PW1 and PW2, who are the prime witnesses, clearly indicates that the prosecution case has not been supported and that no incriminating material has come on record against the accused persons.

15. In such circumstances, the possibility of conviction becomes wholly remote, and the fate of the prosecution case appears to be effectively sealed.

LEGAL POSITION

16. Section 232 of the Cr.P.C empowers the Court to record an order of acquittal if, after taking the evidence for the prosecution, the Court finds that there is no evidence to establish that the accused committed the offence.

17. The provision is intended to prevent unnecessary prolongation of criminal trials where the prosecution has failed to produce any incriminating evidence.

18. It embodies the principle that an accused should not be called upon to enter upon his defence when the prosecution evidence does not disclose a prima facie case.

19. It is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof, and that the prosecution must establish its case beyond reasonable doubt.
20. Where the prime witnesses fail to support the prosecution case, continuation of the trial by examining formal witnesses would serve no useful purpose.

FINDINGS

21. In the present case, although PW1 & PW2 partly supported the prosecution case in their examination-in-chief, their cross-examination makes it abundantly clear that they are unable to substantiate the allegations and have attributed the case to a misunderstanding.
22. As the prime witnesses have failed to support the prosecution case, no purpose would be served by examining the remaining witnesses, who are mostly formal in nature.
23. In the absence of any incriminating material, this Court is of the considered view that proceeding further with the trial would result in unnecessary wastage of judicial time.
24. Accordingly, this Court finds this to be a fit case for acquittal under Section 232 of the Cr.P.C.
25. As the case is being disposed of under Section 232 of the Cr.P.C., there is no requirement to examine the accused persons under Section 313 of the Cr.P.C.

26. Hence, it is

O R D E R E D

that the accused persons, namely Siraj Roy, Susmita Roy, Piyali Bhattacharjee, Bipsi @ Riya Karmakar, and Somnath Roy, are acquitted of all charges under Section 232 of the Cr.P.C due to absence of incriminating evidence.

27.The accused persons are discharged from their bail bonds, subject to compliance with Section 437A of the Cr.P.C, if applicable.

28.The accused persons and the de-facto complainant along with her husband (PW1 & PW2) have submitted an affidavit before this Court.

29.Perused the respective affidavits and let the same be made part of the case record.

30.Let a copy of this judgment, though prepared in the form of a daily order, be uploaded in the CIS within 48 hours from now, in terms of Rule 186A of the Criminal Rules and Orders of the Hon'ble High Court at Calcutta.

31.Let necessary noting be made in the germane registers.

32.Dictated & corrected by me on this 31st day of March, 2026.

Koustuv Mukhopadhyay
(JO Code-WB 01059)
Addl. Dist & Sessions Judge,
Fast Track Court No.1,
Bichar Bhawan, Calcutta.