

In the Court of the Senior Municipal Magistrate Kolkata

Present :

Smt. Parijat Kumar**J O Code UID No.-WB01111**

Senior Municipal Magistrate,

Kolkata, Dist.- Kolkata

GR Case No.-485 of 2024**CNR No.-WBCS03-000548-2024**

State

v

Md. Wasim @ Wasi and others

Order dated
07.04.2026

Today is fixed for appearance and delivery of judgement.

From record it appears that two witnesses have been numbered as PW30 inadvertently. Hence, in order to remove any confusion Inspector Mashood Shawkat examined on 29.10.2025 to be PW30, Ranjan Kumar Mallick examined on 12.11.2025 to be PW31, Kailash Pandit to be PW32 and Jaydeep Mukhopadhyay to be PW33. S.I Chinmoy Banerjee has already been numbers as PW34. The necessary correction is being made on the numbering portion of the said depositions.

The accused persons on court bail are present today in Court.

Judgment which is written in separate sheet containing 114 pages is signed and delivered in open Court.

Accordingly, it is.

O-R-D-E-R-E-D,

that the accused persons namely **Md. Wasim @ Wasi, Md. Sarfaraz @ Pappu, Md. Dilnawaz @ Raza and Md. Samim @ Shamimpuriwala** are found guilty in respect of the charges framed against them for having committed offences punishable under section **401A/392** of the Kolkata Municipal Corporation Act, 1980 and they are accordingly convicted in accordance with the provisions of Section 248 (2) of the Code of Criminal Procedure, 1973.

Bail bond of the accused persons/ convicts is cancelled.

The convicts are taken into custody.

The sureties are discharged from their respective bail bonds.

Now the question is whether it would be expedient to release the convicts on probation in terms of the provision of Section 360 of the Code of Criminal Procedure, 1973 or the provisions of the Probation of Offenders Act, 1958.

It has already been established that the convicts had undertaken the work of unauthorized/ illegal construction at the case premises being its Owners/Developer. No Sanctioned Plan was obtained for construction at the said premises. They did not attempt any regularization. The evidence further suggests that there was a five storied building at the said premises which was also being occupied by people. But during trial no Occupancy Certificate has been produced by the convicts. The said building

collapsed at night damaging further constructions around it. Many people were buried under the debris. PW5 was present in the building when it collapsed and he was injured. He stated that Md. Imran, Md. Rizwan, Maniul Haque, Md. Chhotey and Abdul Rauf died due to the collapse as they were severely injured. PW2 stated that 10-12 people died on spot. PW3 stated that Marium Bibi, Sama Begum and Nasir Ahmed died on spot and their bodies were brought out from under the debris. Md. Haider Ali was also injured. Four family members of PW4 died due to the said incident. PW6 added that one Hasina Begum also died on spot. Even though the rescue authorities made best of their efforts to minimize human casualty but it is clear that they could not succeed completely. Few people were brought out of the debris in unconscious condition. The location of the P.O as abused by the convicts added fuel to the catastrophe. The convicts had raised the said building abutting in narrow lane 1.5 mtr wide. Consequently, the rescue operators have voiced the difficulties which they faced in reaching the spot. The rescue vehicles being Fire Tender, Ambulance etc. faced hardship in reaching the ill- affected P.O. which delayed relief work.

Section 401A of the KMC Act has been worded to cover within its purview mostly unauthorized constructions of such nature and extent where there is likelihood of human life and property being endangered. Such constructions which may cause huge damage and loss to life and property. But in this case, all such apprehensions have come true taking the shape of an unprecedented disaster at the heart of City Kolkata. The convicts did not show any kind of responsibility towards the society and violated the law deliberately. They did not care to obtain any kind of technical assistance whether within the frame work of prescribed sanction procedure or in private manner. They have amalgamated two separate premises without due intimation to the authorities which made it difficult to pin point the case premise number. Such desperate attitude of the offenders cannot be treated leniently. Having regard to all circumstances, it seems that releasing the offenders on probation shall not be sufficient to meet the ends of the justice. The offenders should be punished to prevent miscarriage of justice.

So now before awarding any sentence, as per the provisions of law, the Court is duty bound to hear the convicts on the question of sentence.

The factum of conviction and the prescribed punishment for the offences punishable under section 392/401A of the Kolkata Municipal Corporation Act, 1980 are explained to the convicts and an opportunity is given to them to produce any material as well as to lead any evidence, if necessary, before the Court, with regard to the quantum of sentence that may be passed. The convicts as well as their Ld. Counsel are also given liberty to express their views with regard to the sentence for the particular offences.

The convicts pleaded innocence and prayed for mercy of the court. Ld. Advocate on behalf of the convicts stated that they have been in custody for long and prayed for taking a lenient view in awarding sentence.

Considered respective prayers. Also considered the age of the convicts and their social status. The offence in respect of which sentence is being passed is grave in nature as already discussed and has got huge social impact. Pertinently, convicts have deliberately avoided all statutory authorities to raise the construction without following even the basic and conventional norms of Civil Engineering. They have avoided payment of every statutory fee and raised a multi storied building in a congested locality solely for the purpose of personal gain. They have risked the life of several unsuspecting people. The local Civic Body had no notice of such construction and additional load on their infrastructure. It needs no further discussion and is crystal clear that if such unauthorized constructions are not dealt with a strict view, a bad notion would reflect and a proper message to the society won't be given. The convicts have all along been on court bail in connection to this case.

Decision on Quantum of Sentence

Now the question that remains to be answered is what sentence should be passed upon the convicts. The offence u/s 401A of the Kolkata Municipal Corporation Act, 1980 is punishable with imprisonment for a term which may extend up to five years and also with fine which may extend to Rs.50000/-. The other offence under section 392 of the Kolkata Municipal Corporation Act of which the convicts have been held guilty is punishable with imprisonment which may extend up to six months and also with fine or both. In this case the intention of the convicts must be taken into consideration. The convicts have shown desperation in raising unauthorized building at the case premises. They have not produced any cogent evidence on their behalf so as to mitigate their role and involvement in the unauthorized construction at the case premises and consequences thereof. They ran a parallel process of legal documentation most of which were not even notarized let alone being registered to initiate the process of construction of the building at the case premises by appointing developer on mutual arrangement of shares and benefits, constructed a five storied building and inducted tenants all under the nose of the statutory authorities. The entire process had no touch of technical or legal surveillance. Unless the building rules are implemented strictly the public safety and/or security cannot be maintained properly. The violation of the building rules is serious in nature and pertinently in this case caused multiple deaths, public nuisance, affected the infrastructure of basic amenities of the locality and damaged adjacent premises. The act of making unauthorized construction without Sanctioned Plan is a

complete defiance of the provision of law and has to be reviewed seriously without any leniency. While deciding the quantum of punishment, all these aspects have been considered.

At this stage I am constrained to observe that the Kolkata Municipal Corporation Act pertains to Act 59 of 1980. The relevant provision u/s 401A provides for a punishment of imprisonment of either description which may extend to five years and also with fine which may extend to Fifty Thousand Rupees. On joint reading of Section 392 and Schedule VI the punishment under this section is fine upto Two Thousand and Five Hundred Rupees or six months imprisonment or both.

It can be said without any doubt that the quantum of fine as prescribed in the above sections is not sufficient in the present time and serves little to no purpose even if the maximum amount of fine as prescribed is levied. The monetary gain which one can receive from a five storied functional building by inducting tenants would outnumber the fine amount quickly and thus neither serves as a deterrent for the convicts nor compensate the Civil Authorities in coping with the aftermath of such collapse. But the instant incident and its consequences thereof call for a stringent punishment for the convicts which may both act as retribution and deterrent. Protection of society and deterring the criminal is the avowed object of law and that is required to be achieved by imposing an **appropriate sentence**.

Considering all such aspects, this Court is of the considered view that the convicts deliberately abused established rules and laws and were well aware of the consequences of the alleged construction. Their intention is quite clear from their activities. So, at this stage it appears to this Court that having considered the entire circumstances, this Court is of the considered view that passing of simple imprisonment upon the convicts for a period of Five years along with fine shall be just and reasonable.

Hence, at this stage, having considered the entire circumstances,

it is ,

ORDERED.

that the convicts namely **Md. Wasim @ Wasi, Md. Sarfaraz @ Pappu, Md. Dilnawaz @ Raza and Md. Samim @ Shamimpuriwala** are hereby sentenced to suffer simple imprisonment of five years each and also to pay a fine of Rs. 50,000/- (Fifty Thousand only) each, for the offence punishable under section 401A of the Kolkata Municipal Corporation Act, 1980. In default of payment of fine, to suffer simple imprisonment for three (03) months each.

AND

the convicts are hereby sentenced to suffer simple imprisonment of six months each and also to pay a fine of Rs. 2,500/- (Two thousand Five Hundred only), each and in default of payment of said

fine to suffer Simple imprisonment for a term of one month each for having committed offence punishable under section 392 of the Kolkata Municipal Corporation Act, 1980.

In case of imprisonment the sentences shall run concurrently.

The period of detention, if any, undergone by the convicts during investigation, inquiry or trial of this case and before this date of conviction, be set off against the imprisonment imposed upon them and the liability of the convicts to undergo imprisonment on conviction be restricted to the remainder, if any, of the term of imprisonment imposed upon them.

The convicts are informed in the language understandable by them about their right to prefer appeal against this judgment including their right to avail of legal aid/ assistance in this regard. The convicts have refused to avail legal aid.

Let a copy of this judgment be sent to the Municipal Commissioner, Kolkata Municipal Corporation for information.

Let a copy of this judgment be supplied to the convicts free of cost.

The case stands disposed of. Note in the concerned register and upload in the CIS.

Dictated & Corrected by me

Senior Municipal Magistrate,
Kolkata,

Senior Municipal Magistrate,
Kolkata,

Later:-

Ld. Advocate for the convicts filed a petition.

By the petition the Ld. Advocate for the convicts **Md. Wasim @ Wasi, Md. Sarfaraz @ Pappu, Md. Dilnawaz @ Raza and Md. Samim @ Shamimpuriwala** stating that the convicts **Md. Wasim @ Wasi, Md. Sarfaraz @ Pappu, Md. Dilnawaz @ Raza and Md. Samim @ Shamimpuriwala** intend to prefer an appeal before the Appellate Court and hence, prayed for bail for this reason.

Considered the petition.

As the quantum of sentence to imprisonment is for a term more than three years, the petition for bail is rejected according to Section 389(3) Cr.P.C.

Issue conviction warrant.

D.A to note.

Dictated & Corrected by me

Senior Municipal Magistrate,
Kolkata,

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Kolkata,