

IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE,
1st COURT, Chinsurah, Hooghly.

Present : Sri Rintu Sur, **(J.O Code WB 00877)**
 Addl. District & Sessions Judge,
 1st Court, Chinsurah

S.T case no. 19(09) / 2013
S.C case no. 81 / 2013

(Registration No. SC 228 / 2014)

(CNR No. WBHG01-003403-2013)

(Arising out of Mogra P.S case no. 48/2000 dt. 03.03.2000)

State of West Bengal

.....Prosecutor

-Versus-

Gostho Adhikary & 2 others

.....Accused Persons

Mr. Moloy Majumder

.....Ld. P.P. in-charge, Hooghly

Mr. Dipankar Bar

..... Ld. Defense counsel

Under Sections 399/402 of the Indian Penal Code

Dated: Chinsurah the 16th day of June, 2026.

J U D G E M E N T

1. In this case the accused persons namely Gostho Adhikary, Lakshmi Biswas and Sanjay Roy are facing trial for commission of offence punishable u/s 399/402 of Indian Penal Code.

: Factual Matrix :

2. Instant case was initiated on the basis of a written complaint lodged by one SI Sankha Biswas of O/C Mogra P.S to the effect that on 03.03.2000 while he was on night petrol duty received a source information that some dacoits armed with deadly weapon assembled at the land beside Kalyani Expressway behind the toll tax collection center of Pandua for preparation to commit dacoity. After getting the information he and his force rushed to this spot and managed to arrest five accused persons and recovered one iron rod, bottle bomb from their possession. Said articles were seized in presence of the witnesses. The accused persons confessed their guilt and they were brought to the PS.

3. On the basis of the written complaint a specific case being Mogra P.S case no 48/2000 dt. 03.03.2000 u/s 399/402 IPC and Section 9B (ii) of Indian Explosive Act was registered and formal FIR was prepared. Thereafter the case was endorsed to S.I Aniruddha Sarkar of Mogra P.S for investigation. After completion of investigation, he submitted chargesheet against the five accused persons u/s 399/402 IPC vide chargesheet no.80 dated 24.05.2001. During trial two of them expired and case was filed forever against them.

4. Ld. CJM, Hooghly after securing attendance of the aforesaid accused persons and after compliance of the statutory provision of law u/s 207 of Cr.P.C committed the case record before the Ld. Sessions Judge, Hooghly, who in turn was pleased to transfer the case to this court for trial.

5. Pursuant to the charge sheet, as well as materials on record, this court was pleased to frame charge against the accused persons u/s 399/402 IPC on 13.09.2013. Substance of acquisition was read over the explained to the accused persons, who after understanding the same abjured their guilt and they were put on trial.

6. In the eventual trial the prosecution has able to examine only 2 witnesses. That apart seizure list dated 03.03.2000 was marked Exhibit – 1.

: Points for consideration:

7. From the rival case of the respective parties following points have been cropped up for consideration and determination.

- 1) Whether the accused persons committed the offence punishable u/s 399/402 IPC ?
- 2) Whether prosecution has able to prove it's case beyond all reasonable doubt?

: Decision with reasons :

8. In order to establish their case, Prosecution from their gallery of witnesses, was able to produce 2 witnesses. It is needless to mention that the witnesses are the eyes and ears of justice so we have to look upon their evidence on the touchstone of credibility. It is the cardinal principle of criminal law and justice that the prosecution has to establish its case beyond all reasonable doubt and through the testimony of the witnesses fortified by documentary prove, the prosecution has to build or form a chain of circumstances and the same should be so complete that there is no escape from the conclusion that within all probability the crime was committed by the accused persons and none else and the evidence is consistent with the guilt of the accused persons and inconsistent with the plea of innocence.

9. During trial one witness namely Haradhan Ghosh was examined as PW-1. He was one of the witnesses in seizure list dated 03.03.2000 being a member of night petrol duty with the complainant SI Sankha Biswas. This witness identified his signature on seizure list but failed to recollect anything about the incident. PW-2 who was the 2nd IO stated in his evidence that during further investigation he visited the PO, prepared rough sketch map with index examined the available witnesses and recorded their statements. He perused the CD and consulted with his superior officer and thereafter submitted charge sheet under Sec. 399/402 IPC. Apart from these two witnesses the prosecution has failed to bring any of the material witnesses including the complainant to establish the alleged incident. Moreover, seized materials were not produced during examination of PW-1 & PW-2. The prosecution has also failed to bring any evidence in support of the involvement of the accused persons facing trial in the alleged incident of dacoity.

10. On collective appreciation of the evidence both oral and documentary, placed from the side of the prosecution leaves no iota of doubt that the prosecution has failed to make any impact or indicate the accused persons to have any nexus or involvement with the alleged incident. On appreciation of oral as well as documentary evidence adduced and produced from the side of the prosecution it can safely be concluded that the evidence is inconsistent with the guilt of the accused persons and consistent with the plea of innocence. Thus, at the end, I have no hesitation to hold that the prosecution has miserably failed to prove their case beyond all reasonable doubt and thus one conclusion is inevitable, i.e. the accused persons are entitled to be absolved from this case as prayed from the side of the defence.

Hence, it is,

ORDERED

that the accused persons namely **Gostho Adhikary, Lakshmi Biswas and Sanjay Roy** are found not guilty for the offence punishable u/s 399/402 of IPC and accordingly they are acquitted from this case u/s 232 of Cr.P.C.

The accused persons are discharged from their bail bonds along with their sureties subject to the provision u/s 437 (A) of Cr.P.C.

In compliance of the direction passed by the Hon'ble High Court, Calcutta, copy of the judgment be forwarded to the District Magistrate, Hooghly and to the Secretary D.L.S.A, Hooghly to intimate the complainant about his right to prefer appeal against the judgment passed by this court as per Proviso to Section 372 of Cr.P.C and if necessary to avail free legal assistance through the Legal Services Authority concerned to prefer an appeal.

Inform all concerned accordingly.

Dict. & correct by me.

Sd/- R. Sur
Additional Sessions Judge
1st Court, Chinsurah.

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