

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE , FAST TRACK COURT
CHANDANNAGAR, DIST: HOOGHLY.**

PRESENT: SRI JAGOJYOTI BHATTACHERJEE,

Additional Sessions Judge,
Fast Track Court, Chandannagar
District : Hooghly.
(J.O. Code – WB00971)

Case No. **S.T 18/2018**
SC 48/2015

[Arising out of Bhadreswar P.S Case No.244/2014 dt. 17.07.14]

DATE OF JUDGMENT: 28TH DAY OF APRIL, 2026

Complainant	State of West Bengal [Defacto Complainant:- Smt. Mamani Sarkar W/o Lt. Tarak Sarkar of Mankundu, Paschimpara, P.S Bhadreswar, Hooghly
Represented by	Ld. P.P. in charge –Sri Pranab Chakraborty
Accused	1) Pintu Adhikary S/o Naresh Ch. Adhikary, of Krishnapur, P.S Chinsurah, Hooghly 2) Sanjib Das S/o Dilip Das of Rabindranagar, P.S Chinsurah, Hooghly. 3) Kamal Sarkar S/o Lt. Sunil Sarkar of Krishnapur, P.S Chinsurah, Hooghly
Represented by	Ld. Advocate Sri Indradeb Saha

Date of Offence	17.07.2014
Date of FIR	17.07.2014
Date of Chargesheet	14.10.2014
Date of framing of Charges	01.09.2018
Date of commencement of Evidence	04.12.2018
Date on which Judgement is reserved	NOT APPLICABLE
Date of the Judgment	28.04.2026
Date of the Sentencing Order, if any	NOT APPLICABLE

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C
	Sanjib Das	19.07.14	10.11.14	U/s 302/34 I.P.C	Acquitted	Nil	Not applicable
	Pintu Adhikary	22.08.14	18.10.14				
	Kamal Sarkar	18.11.14	13.02.15				

LIST OF PROSECUTION /DEFENSE / COURT WITNESSES

A. Prosecution:

RANK	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W1	Rabin Khan	Other witness
P.W2	Bhagabati Sarkar	Mother of the deceased
P.W3	Binota Kirtaniya	Other witness
P.W4	Babul Ch. Bapari	Other witness
P.W5	Santi Rani Bapari	Other witness
P.W6	Mamoni Das	Complainant
P.W7	Anirban Kundu	Other witness
P.W8	Hema Garang	Sister of the deceased
P.W9	Apu Roy	Other witness
P.W10	Dulal Kirtaniya	Other witness
P.W11	Swapan Garang	Other witness
P.W12	Gourhati Das	Other witness
P.W13	Srustidhar Pradhan	Other witness
P.W14	Ramchandra Naskar	Police witness
P.W15	Dr. Dilip Kr. Roy	Doctor
P.W16	Dr. Bandana Chakraborty	Doctor

B. Defense Witnesses, if any: NIL

C. Court Witnesses, if any: NIL

LIST OF PROSECUTION /DEFENSE / COURT EXHIBITS

A. Prosecution:

Exhibit Number	Description
Exhibit -P-1	Written complaint
Exhibit -P-1/1	Signature of P.W1 in the written complaint
Exhibit -P-1/2	Signature of P.W6 in the written complaint
Exhibit -P-2	Seizure list
Exhibit -P-2/1	Signature of P.W9 in the seizure list dt.17.07.14
Exhibit -P-3	Signature of P.W11 in the seizure list dt.17.07.14
Exhibit -P-4	P.M report of deceased along with seal and signature of P.W16

B. Defense: NIL

C. Court Exhibits: NIL

D. Material exhibit on behalf of the prosecution:-NIL

J U D G E M E N T

1. This is a case under Section 302/34 of the Indian Penal Code (in short IPC).

2. Present case is originated on the basis of an FIR lodged by Mamoni Sarkar wife of the deceased Tarak Sarkar. The FIR was lodged at Bhadreswar P.S on 17.07.14.
3. In a nutshell it is the case of the prosecution that on 16.07.14 at about 10.00 p.m Pintu Adhikary, Sanjib Das and Kamal Sarkar came to the house of Tarak Sarkar and called him. Tarak Sarkar went out from his house along with them, promising his wife that he would return shortly. After that he did not return his house on that night. His wife woke up at about 6 a.m on 17.07.2014 and she did not find her husband and on quarry she came to know from Anirban Kundu that body of her husband was lying near Mankundu Rail line. Then and there she rushed to the spot and identified the body of her husband and lodged the FIR against Pintu Adhikary Sanjib Das and Kamal Sarkar.

INVESTIGATION:-

4. S.I Debnath Sadhukhan had received the written FIR and registered Bhadreswar P.S Case No.244/2014 dt. 17.07.14 under Sec. 302/34 of the I.P.C. The case was entrusted to S.I Amitabha Ghosh for investigation. During investigation Mr. Ghosh had perused the FIR, visited the spot, prepared rough sketch map along with index, examined available witnesses, collected postmortem report, inquest report of the deceased. Thereafter, consulting with the case diary and as per advice of his superior he had submitted charge sheet against the accused Pintu Adhikary, Sanjib Das and Kamal Sarkar, for allegedly committing an offence under Section 302/34 of the IPC .

COMMITMENT AND FRAMING OF CHARGE:-

5. Ld. A.C.J.M., Chandernagore after receiving the charge-sheet, he had committed the case record to the court of the Ld. Additional District and Sessions' Judge, Chandernagore, Hooghly. This Court had received the case record by way of transfer and charge was framed against the accused persons for committing an offence under Sec. 302/34 of IPC dt.01.09.2018. Accused had denied the charge and claimed to be tried as per law.

6. Prosecution to prove its case had produced as many as sixteen witnesses. On the basis of their recorded testimony accused were examined under Sec.313 of the Cr.P.C, AND they had totally denied the allegation attributed upon them and declined to adduce any evidence.

7. The case record was taken up for hearing argument.

ARGUMENT:-

8. Learned Counsel for the State has contended that body of Tapas Sarkar was recovered by the side of railway truck Mankundu on 17.07.14. On the night of 16.07.14 accused persons came to the house of the deceased and called the deceased and took him with them. Wife of the deceased P.W6

had seen the accused to accompany her husband. It has also been ascertained that one of the accused Pintu Adhikary had disputed as he had an affair with the sister of the deceased and out of previous grudge all the accused took the deceased to the railway line, consumed liquor and murdered the husband of P.W6. P.W3, 4 and 5 have stated in their evidence that they had seen the deceased along with the accused to consume liquor by the side of railway line Mankundu. They had also noticed that the deceased had quarrel with the accused. All those facts indicate that the accused had motive behind the crime and they had planned it to end the life of the deceased. Therefore, there is no question of acquit them. They should be punished for their misdeed.

9. In reply, learned counsel for the accused has claimed that the accused have been ensnared in the present case on the basis of mere speculation, as the deceased had a friendship with them. None of the prosecution witness had seen the accused to commit the crime. P.W1 herself has stated in her evidence the accused was not acquainted with her. Therefore, it is next to impossible for P.W6 to identify all the accused on that very night. Further, the prosecution witnesses have categorically stated that the accused was in the habit of consuming liquor and on that very night he was consumed liquor at the railway line side and as per postmortem report he had died due to rail accident. There is no iota of evidence to say that the accused had committed the crime or plan to murder him. Save and except the solitary statement of P.W6

prosecution has failed to put forth any clinching evidence against the accused. As per criminal jurisprudence no accused be punished on the basis of mere speculation. On the contrary the prosecution has to prove its case beyond reasonable doubt, which is lacking in the present case and the accused deserve to be acquitted from this case.

DECISION THEREON:-

The accused persons are acquitted under Sec.235(1) Cr.P.C.

POINTS FOR CONSIDERATION :-

10. After due consideration of rival submissions and the materials on record, following points are formulated for adjudication;

i) Whether the prosecution has succeeded to prove the charge under Section 302/34 of the IPC beyond reasonable doubt ?

ii) What order?

DECISIONS WITH REASONS: -

11. If the case of the prosecution is studied between the lines, it reveals that body of Tarak Sarkar son of Aswani Sarkar of Anandanagar, Paschimpara, Mankundu, Bhadreswar was found by the side of railway truck Mankundu railway station and his head was separated from his body and prosecution has claimed that he was murdered by the accused and then his body was

thrown to the railway track. To prove the said allegation prosecution has produced 16 witnesses which are as under:-

12. P.W1, has stated in his evidence that he had written the FIR as per instruction of P.W6 but he had no personal knowledge about the incident.

13. P.W2, mother of the deceased has stated that on that night she had gone to her daughter's house and she came to know about the incident from P.W6.

14. P.W3, 4, 5 and 10 all are inhabitant of the locality, who they have claimed that on that night they had gone to the nearby place to the spot to hear 'Kirtangan' and when they were returning house they had noticed Tarak Sarkar along with two other persons were consuming liquor by the side of railway track near Mankundu rail station but neither of them had seen the other persons who were accompanying Tarak Sarkar. They came to know about the death of Tarak Sarkar on the next day morning.

15. P.W6 wife of the deceased has claimed that on 16.07.14 at night (10.00 p.m) Pintu Adhikary, Sanjib Das and Kamal Sarkar took her husband from his house. Her husband did not return on that night. On the next day morning she came to know from P.W7 about the death of her husband. She rushed to the spot and had seen the beheaded body of her husband. Later she came to know from P.W3 and P.W10 that her husband had a quarrel with the accused on that night and the accused

had murdered him. She has further added that her husband had an animosity with Pintu Adhikary.

16. P.W7 has stated in his evidence that on 17.07.14 in the morning he got the news of railway accident at/near Mankundu station. He rushed to the spot and seeing the wearing apparels he had identified the deceased as his maternal uncle. He rushed to P.W6 and disclosed him everything. From P.W6 he came to know about the involvement of the accused behind the death of Tarak Sarkar.

17. P.W8 sister of the deceased has stated in her evidence that she came to know from P.W6 about the murder of her brother Tarak Sarkar and involvement of the accused.

18. P.W9 and 11 have not corroborated the case of the prosecution.

19. P.W12 the then Station Master, Bhadreswar who had received the information from a driver of Burdwan Local that a dead body was lying on the mainline truck at KM No.29/29A to 30/1. He sent P.W13 at the spot to remove the dead body. P.W13 has corroborated the fact.

20. P.W14, 15 have failed to recollect anything.

21. P.W16 Autopsy surgeon has conducted autopsy of the dead body and has opined that immediate cause of death of the deceased was shock due to multiple injury and haemorage. He has further opined that he did not find any alcohol or similar material in the stomach of the deceased.

22. On scrutinizing the testimony of the prosecution evidence it transpires that neither of the witnesses had seen the accused to commit the crime. The entire case is based on circumstantial evidence. Nor P.W6 has claimed that he had seen the accused to accompany her husband. Simultaneously she had claimed that her husband did not introduce his friends to her. Naturally it raises a question, how she came to know the accused. Further she has claimed that accused Pintu Adhikary had an affair with her sister in law and he had an animosity with the deceased but when her husband had left house along with Pintu Adhikary as alleged, she did not raise any question nor asked anything to her husband. Her husband went out from his house late at night. Therefore, he did not return. As per statement of P.W8 deceased was a habitual drinker. P.W3, 5 and 10 had seen the deceased near the railway track Mankundu to consume liquor with other two accused persons. Whereas, the accused are three in numbers. Moreover, P.W16, Autopsy surgeon conducted autopsy of the deceased, did not notice any smell of liquor or similar substance at the liver of the deceased on dissection. Therefore, statement of P.W3 to P.W6 and P.W10 do not tally with the report of P.W16. Moreover, P.W6 has claimed that she came to know from P.W3 and P.W10 that on that dreadful night her husband along with the accused were at the railway track near Mankundu, but P.W3 and P.W10 have not corroborated the fact, that they had disclosed it to P.W6 or they had seen the deceased with the accused at the crime scene. Even in the FIR P.W6 has not narrated the fact that she had heard from P.W3 and P.W10 that her husband all along with the accused when the incident had taken place. Therefore, the aspersion as raised by P.W6 against the accused appears to have been raised on the basis of mere speculation and not supported by any evidence.

23. Further in case of circumstantial evidence the prosecution has to prove the motive behind the crime but in the case in hand the prosecution has failed to put forth the motive

behind the crime neither there was any family animosity, previous grudge or anything else. In this connection it is worth to mention that P.W6 has claimed that accused Pintu Adhikary had an affair with her sister in law and over the said issue Pintu had a previous grudge against her husband, but the said fact has not been corroborated by her sister in law. Resultantly the card of family animosity has not been corroborated and not been proved in this case.

24. As per postmortem report Ext.P-4 the deceased had died due to shock received by him as his head was beheaded from the rest of the body. It does not indicate that such type of injury was caused by this accused and it was not received by the deceased due to his own negligent conduct.

25. From the testimony of the prosecution witness there is no such evidence to say that the accused were present along with the deceased at the crime scene or they had caused the injury. In absence of any such evidence it is tough to say that the accused were responsible or they had any guilty mind to cause the death of the deceased.

26. The prosecution has failed to prove its case beyond reasonable doubt. As a result the points as aforesaid are decided against the prosecution. Consequently, accused persons deserve to be acquitted from this case.

Hence it is;

ORDERED

that accused persons namely 1) **Pintu Adhikary** S/o Naresh Ch. Adhikary, 2) **Sanjib Das** S/o Dilip Das and 3) **Kamal Sarkar** S/o Lt. Sunil Sarkar are found not guilty for committing offence under Sec. 302/34 of the IPC and they are acquitted under Section 235(1) of the Code of Criminal Procedure.

Accused persons are discharged from their bail bonds.

Sureties be released from their bail bonds.

The case be dropped from its original file.

BC-I is directed to consign the case record to the District Record room after completion of appellate period.

Dictated & corrected by me

Additional Sessions Judge,
Fast Track Court, Chandannagar
(J.O. Code – WB00971)

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Fast Track Court, Chandannagar
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