

13.04.2026
103.
Bd.
Ct. 29

CRR 2215 of 2025

Narayan Ghosh
Vs.
State of West Bengal & Anr.

Mr. Dipanjan Chatterjee
Ms. Anindita Kundu ... for the petitioner.

This application has been preferred against the judgment and order of conviction dated 26th March, 2025 passed in Criminal Appeal No. 23 of 2022 whereby the court below has affirmed the order of affirmation under sections 341/323 of the Indian Penal Code passed by learned Judicial Magistrate 4th Court, Krishnanagar, Nadia in GR Case No. 4704 of 2011 arising out of Kotwali Police Station case no. 1385 of 2011 dated 03.12.2011.

Being aggrieved by the aforesaid order learned counsel for the petitioner submits that the allegation leveled in the FIR is that on 02.12.2011 at about 5.00 p.m. while the victim was returning home he was assaulted by the petitioner and one Gobinda Ghosh with "Dao and "Iron rod" on his head resulting bleeding injury. Thereafter he was taken to hospital where he received 7 stitches on his head. The trial court convicted the petitioner and sentenced him to suffer simple imprisonment and also to pay fine separately for the offences punishable under section 341/323 of the Indian Penal Code.

Challenging the said order of conviction the petitioner preferred an appeal before learned Sessions

Judge and the Appellate Court by the impugned order has affirmed the judgment passed by the trial court.

Being aggrieved by the aforesaid order of affirmation learned counsel for the petitioner submits that the prosecution has examined eight witnesses during trial out of which defacto-complainant PW 1, admitted in his cross-examination that he has heard about the alleged incident from the neighbours and he is not an eye witness. But PW 2 stated that he has heard that the victim sustained injury as he fallen down. PW3 stated that he could not recollect anything about the alleged incident. PW 6, is a medical officer and when the victim was brought to him he found that the cut injury has already been stitched. Investigating Officer, namely PW 7 has not seized the wearing apparels of the victim nor had taken any steps in order to recover the offending weapon. Evidence of PW 8 is doubtful and also failed to establish any satisfactory motive behind the alleged occurrence.

He further submits that prosecution has failed to prove the case beyond reasonable doubt nor they could prove the motive behind the alleged incident and the trial court while passing the order of conviction to the petitioner did not deal with the benefit of section 360 and 361 of the Cr.P.C. read with section 4 of the Probationers of Offenders Act.

Having heard learned counsel for the petitioner, the application is admitted.

Petitioner is directed to serve a copy of application upon the State through the office of the Public Prosecutor, High Court Calcutta and upon the opposite party no. 2 through speed post intimating next date of hearing and to file affidavit of service on the returnable date.

Let the matter be listed under the heading “Contested Application” in the monthly list of June, 2026.

Learned counsel for the petitioner also prays for interim stay.

Having heard learned counsel for the petitioner and that the petitioner has made out an arguable case, which requires adjudication on merit, let the judgment and order of conviction dated 26th March, 2025, passed by learned Judicial Magistrate, 4th Court, Krishnanagar, Nadia, be stayed for a period of twelve weeks from date or until further order, whichever is earlier.

(Dr. Ajoy Kumar Mukherjee, J.)