

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). 1914 OF 2019

TINKARI GHOSH

....APPELLANT(S)

VERSUS

**ANANDA MANDAL
AND OTHERS**

....RESPONDENT(S)

ORDER

1. Heard.

2. The appellant, being the de-facto complainant, has approached this Court by way of the instant appeal with special leave, assailing the judgment dated 28th April, 2016, passed by the High Court of Calcutta¹ in C.R.R. No. 1676 of 2000, whereby the aforesaid criminal revision petition filed by the appellant herein was dismissed.

3. The respondent herein were arraigned in an FIR No. 88 of 1992 lodged by the appellant herein at the Police Station, Bhatar for offences punishable under Section 147, 148, 149, 341 and 325 of the Indian Penal Code, 1860², to which Section

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VARSHA MENON
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Reason:

1 Hereinafter, referred to as "the High Court"

2 For short, "IPC"

302 IPC was subsequently added upon the death of the injured.

4. As per the FIR, ten assailants surrounded the house of the complainant over a dispute of land of the school and took away his brother Ekkari Ghosh and assaulted him mercilessly in the house of the accused Satya Charan Majumdar. Injuries were inflicted on the head and other parts of the body of the brother of the complainant, who expired while undergoing treatment in the Burdwan Medical College and Hospital. After investigation, a chargesheet was filed against 17 accused persons who are the respondents herein. The trial Court framed charges under Sections 304/34 and 342/34 against the respondents who pleaded not guilty and claimed trial. Upon conclusion of trial, the trial Court proceeded to acquit the respondents of the charges *vide* judgment dated 16th June, 2000 by extending the benefit of doubt to the respondents.

5. Being aggrieved and dissatisfied with the judgment of the trial Court, the appellant herein, being the de-facto complainant, filed the aforesaid revision petition before the High Court, which came to be dismissed by the judgment dated 28th April, 2016 which is subject matter of challenge in this appeal with special leave.

6. We have heard and considered the submissions advanced by Mr. Ranjan Mukherjee, learned AOR representing the appellant and Mr. Rauf Rahim, learned senior Advocate, representing the respondents, and have gone through the

judgments rendered by the trial Court and the High Court, as also other material placed on record.

7. We find grave discrepancies in the testimony of the material prosecution witness, namely, Tinkari Ghosh (PW-1), the appellant herein, and Anil Ghosh (PW-2), and so also grave contradictions *inter se* in the testimony of the so-called eyewitnesses and of Dr. Pradip Kumar Ghosh, Medical Jurist (PW-13).

8. The number of accused named in the FIR was 10, whereas at the trial, the said number was increased to 17 by the alleged eye-witnesses while deposing at the trial.

9. On a perusal of the statement of Tinkari Ghosh (PW-1), the appellant herein, it becomes clear that he stated about two sets of incidents which took place on 7th August, 1992. In the first set, the accused persons, 17 in number, pelted stones and brickbats at his house. Thereafter, some members of the school committee, who had come to his house, managed to flee through the back door. The accused persons turned their wrath towards these members, one of which was Ekkari Ghosh, the brother of the complainant.

10. The complainant alleged that, after two hours Shanti Ghosh and Anil Ghosh came to his house and reported that Ekkari Ghosh had been forcefully confined by the accused persons at the RI office and was being brutally assaulted. When the complainant reached the RI office, he saw Ekkari Ghosh

lying unconscious inside the Bhangagara Club/RI office. Apparently thus, Tinkari Ghosh (PW-1) was not an eyewitness to the alleged assault made on Ekkari Ghosh and his evidence regarding the second incident is hearsay.

11. Anil Ghosh (PW-2) stated that as many as 17 accused persons assaulted Ekkari Ghosh on his head. As a result, Ekkari Ghosh fell down and the accused continued to strike him with lathis, iron rods, etc. Thereafter, the accused dragged Ekkari Ghosh to the house of Satya Charan Majumdar. From there, the Ekkari Ghosh was taken to Bhangagar Club/RI office. After this, the witnesses Anil Ghosh and Satya Ghosh reported the incident to the complainant. Similar evidence was given by Shanti Ghosh (PW-3), though of course, with a divergent figure regarding the number of the assailants.

12. Dr. Pradip Kr. Ghosh, (PW-13), Medical Jurist, stated that he conducted post-mortem and observed 11 ante-mortem injuries on the body of the Ekkari Ghosh while conducting the autopsy. However, while deposing, the Doctor failed to give any details whatsoever of the injuries noted by him in the post-mortem report.

13. Although the Doctor opined that the death was homicidal in nature, he did not state that any head injury was noted on the body of the deceased. He also did not state that any of the injuries, either individually or cumulatively, was sufficient in ordinary course of nature to cause death.

14. In this background, we are of the opinion that the evidence of the prosecution witnesses is full of material contradictions and discrepancies.

15. The trial Court, upon appreciation of the evidence on record, *inter alia*, arrived at a conclusion that the very presence of the purported eyewitnesses at the place of occurrence was doubtful and that their testimonies were inconsistent with the allegations made in the FIR and with each other on material particulars relating to the place of incident and manner of occurrence. In this background, the trial Court concluded that the prosecution had failed to establish the guilt of the accused beyond reasonable doubt and accordingly acquitted them by a well-reasoned judgment dated 16th June, 2000.

16. The High Court, while considering the challenge to the order of acquittal in the revision filed by the complainant observed that it was not the case of the revisionist that the trial Court had excluded any material evidence from consideration or overlooked any evidence which could have a decisive bearing on the outcome of the case. Finding no miscarriage of justice or perversity in the judgment of acquittal, the High Court dismissed the revision petition and affirmed the acquittal.

17. This Court, while examining a challenge to the concurrent findings of fact recorded in favour of the respondents being the acquitted accused persons, would be loath to interfere with such findings unless any perversity or gross illegality is pointed

out in the impugned judgments. No such perversity has been demonstrated before us.

18. Law is well-settled by a catena of decisions of this Court that, while considering an appeal against acquittal, the Court should be slow to interfere where two views are possible, and the view in favour of the accused should be given primacy.

19. In this background, we find no merit in this appeal, which is accordingly dismissed.

20. Pending application(s), if any, shall stand disposed of.

.....**J.**
(SANDEEP MEHTA)

.....**J.**
(DEVENDRA KUMAR UPADHYAYA)

NEW DELHI;
OCTOBER 14, 2026.

ITEM NO.111

COURT NO.17

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 1914/2019

TINKARI GHOSH

Appellant(s)

VERSUS

ANANDA MANDAL & ORS.

Respondent(s)

Date : 14-10-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE DEVENDRA KUMAR UPADHYAYA

For Appellant(s) Mr. Ranjan Mukherjee, AOR

For Respondent(s) Mr. Rauf Rahim, Sr. Adv.
Mr. Ali Asghar Rahim, Adv.
Mr. Mohsin Rahim, Adv.
Mr. Shekhar Kumar, AOR

Mr. Kunal Mimani, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(VARSHA MENDIRATTA)
ASTT. REGISTRAR-cum-PS

(AKSHAY KUMAR BHORIA)
COURT MASTER (NSH)

(Signed order is placed on the file)