

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Prasenjit Biswas**

C.R.A. 497 of 2010

Palas Dolui @ Tanai

-Versus-

The State of West Bengal

For the Appellant : **Mr. Apan Saha,
Mr. Tasnim Ahmed.**

For the State : **Mr. Saryati Datta
Ms. Kanchan Roy.**

Hearing concluded on : **27.02.2026**

Judgment On : **18.03.2026**

Prasenjit Biswas, J:-

- 1.** The instant appeal is directed against the impugned judgment and order of conviction dated 23.06.2010 passed by the learned Additional Sessions Judge, Fast Track Court, Amta, Howrah in connection with Sessions Trial No. 269/09 arising out of Joypur P.S. Case No. 54/08 dated 28.07.08 corresponding to G.R. Case No.768/08 at the instance of the appellant.

2. By passing the impugned judgment the present appellant was found guilty for commission of offence punishable under Section 325 of the Indian Penal Code and he was sentenced to suffer rigorous imprisonment for one year along with fine of Rs.5000/- and in default of payment of fine to undergo further rigorous imprisonment for three months.
3. Being aggrieved by and dissatisfied with the said impugned judgment and order of conviction the present appellant has preferred this instant appeal.
4. Shorn of extraneous details, the facts leading to the present appeal may be summarized as follows:

"The instant case originated on the basis of a written complaint lodged by Smt. Ratan Pramanick before the Joypur Police Station. In the said complaint, it was inter alia stated that on 28.07.2008, at approximately 9:30 A.M., one Sisir Mistry was engaged in repairing the tile shed of the complainant's house. At that time, Palash Dolui, the appellant and next-door neighbor of the complainant, objected to the said repair work. According to the complaint, the victim, who is the daughter-in-law of the de-facto complainant, informed the appellant that the work was being carried out within the boundaries of their own land. On hearing this, the appellant allegedly returned

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to his house, retrieved a "sabal" (iron rod), and struck the victim on her head with the said weapon, causing a bleeding injury. Subsequently, the injured victim, Sandhya Pramanick, was initially taken to Joypur Hospital for treatment and thereafter referred to the Calcutta Medical College and Hospital for further medical care. On the basis of the said complaint, a formal case was registered at Joypur Police Station, being Case No. 54/2008, dated 28.07.2008. Following the completion of the investigation, the prosecuting agency submitted a charge-sheet against the appellant, Palash Dolui, under Sections 325 and 307 of the Indian Penal Code".

- 5.** Charge was framed by the Trial Court against the accused under Section 325/307 of the Indian Penal Code which was read over and explained to the accused, in which he pleaded not guilty and claimed to be tried. In this case, prosecution has examined as many as seven witnesses and documents were marked as exhibit on its behalf. Prosecution also proved the seized alat which are marked as material exhibits. Neither any oral nor any documentary evidence was adduced on behalf of the defence.
- 6.** Mr. Apan Saha, learned Advocate appearing for the appellant, has contended that the ingredients of Section 325 of the

Indian Penal Code have not been established against the appellant, and therefore, the impugned judgment and order of conviction cannot be sustained. It is submitted by Mr. Saha that the evidence on record, when scrutinized in its entirety, fails to demonstrate that the appellant inflicted grievous hurt upon the alleged victim as contemplated under the statutory provisions.

- 7.** The learned Advocate further pointed out that the statements of the prosecution witnesses contain apparent contradictions and material omissions, which go to the root of the prosecution's case. These inconsistencies, as submitted, significantly undermine the reliability of the prosecution evidence and create reasonable doubt regarding the appellant's culpability.
- 8.** It is also submitted that the allegedly seized weapon, namely the 'sabot,' was never subjected to scientific examination. This omission, according to the learned Advocate, casts doubt on whether the said weapon was actually employed in the commission of the alleged offence. The non-examination of this crucial piece of evidence, therefore, impairs the veracity of the prosecution's case.
- 9.** Mr. Saha further assailed the prosecution for its failure to examine a vital witness, one Sisir Mistry, who was present at

the relevant time and allegedly witnessed the incident. No explanation has been provided for the non-examination of this material witness, despite the apparent importance of his testimony to the proper adjudication of the matter. In addition, it is submitted that the incident in question occurred in the presence of several individuals; however, the prosecution failed to cite these independent witnesses. The absence of testimony from such eyewitnesses, who could have corroborated the occurrence of the offence, renders the prosecution's narrative less credible.

- 10.** The learned Advocate drew the attention of this Court to the statements of PW1 and PW3, submitting that their evidence is inconsistent with the testimony of PW5 concerning the place of occurrence. These discrepancies, it is argued, further diminish the reliability of the prosecution's case.
- 11.** In view of the above, Mr. Saha, learned Advocate, submitted that the impugned judgment and order of conviction passed by the learned Trial Court is legally unsustainable. It is, therefore, prayed that this Court may be pleased to allow the appeal preferred by the appellant and set aside the conviction.
- 12.** Mr. Saryati Datta, learned Advocate appearing for the State, submitted that there is no material on record which warrants any interference with the findings of the learned Trial Court in

the impugned judgment and order of conviction. It was contended that the prosecution case has been fully and satisfactorily established through the depositions of the material witnesses, and the Trial Court's conclusions are based on cogent and credible evidence.

- 13.** According to the learned Advocate, PW1, Smt. Ratan Pramanick, the defacto complainant, and PW5, Sandhya Pramanick, the victim/injured, consistently supported the prosecution's case through their oral evidence. Although both witnesses were subjected to cross-examination by the defence, nothing material could be elicited from their testimony to render their accounts unreliable or untrustworthy. Their statements clearly detail the events that occurred on the relevant date, including the altercation between the accused and the victim and the assault with the offending weapon. The witnesses explicitly described the conduct of the accused and the consequences of his actions, leaving no doubt regarding the commission of the offence.
- 14.** It was further submitted that PW3, Jharna Pramanick, an independent eyewitness to the incident, corroborated the statements of PW1 and PW5. PW3 deposed that in her presence, the police seized the offending weapon, i.e. 'sabal', along with other materials. This corroboration reinforces the

testimonies of PW1 and PW5 and underscores the reliability of the evidence regarding the assault and the seizure of the weapon.

- 15.** The learned Advocate emphasized that there is no dispute as to the occurrence of the offence. The witnesses collectively established that the accused brought the 'sabal' from his house and struck the victim on the head, causing severe injuries. PW6, Dr. Sudakshina Bhar, who treated the victim, confirmed that the injuries were grievous in nature, as documented in the injury report, Exhibit-3. The offending weapon was also duly marked as a material exhibit in the case (Material Exhibit-1) and was identified in Court by the witnesses, further substantiating the prosecution's version of the incident.
- 16.** In view of the above, the learned Advocate submitted that the prosecution has proved the case beyond reasonable doubt. The findings of the learned Trial Court convicting the appellant under Section 325 of the Indian Penal Code are therefore fully justified. There is no ground for interference, and the impugned judgment and order of conviction ought to be upheld. Accordingly, it was prayed that the instant appeal filed by the appellant be dismissed and the conviction and sentence imposed by the Trial Court be sustained in all respects.

- 17.** I have anxiously considered the rival submissions advanced by both the parties and have gone through all the materials on record.
- 18.** The evidence of the material witnesses examined on behalf of the prosecution clearly unfolds the manner in which the incident occurred and consistently attributes the overt act to the present appellant.
- 19.** PW1, Smt. Ratan Pramanick, who is the mother-in-law of the victim/injured and also the defacto complainant of the case, deposed before the Trial Court narrating the incident in detail. According to her testimony, on the relevant date and time one Sisir Mistry was engaged in constructing a structure for a tile shed in their old house. At that time, the present appellant-accused raised objection to the construction of such structure. The victim, who is the daughter-in-law of this witness, resisted the objection and asserted that the structure was being constructed on their own property and therefore the accused had no reason to interfere. It is further stated by PW1 that during the course of the ensuing altercation, the accused went to his house, brought a sabal (iron rod) and suddenly struck the victim on her head with the said weapon. As a result of the severe blow, the victim sustained grievous bleeding injuries, lost consciousness and fell down on the ground. PW1 further

stated in her evidence that the injury was so severe that brain matter came out from the head of the victim.

- 20.** PW1 further stated that immediately after the incident the victim was first taken to Joypur B.B. Dhar Hospital and thereafter she was referred to and admitted at Calcutta Medical College and Hospital for better treatment. She also deposed that during the course of investigation the police recovered the offending weapon, namely the 'sabal', and also seized blood-stained earth and blood-stained bamboo leaves from the place of occurrence by preparing a seizure list. PW1 stated that she put her Left Thumb Impression (L.T.I.) on the said seizure list as a witness to the seizure. During her examination before the Trial Court, she also identified the offending weapon that had been produced before the Court.
- 21.** PW5, Sandhya Pramanick, who is the victim/injured in the present case, also deposed before the Trial Court and her testimony substantially corroborates the version of PW1. She stated that on 28th July, 2008 at about 9:30 A.M., when one Sisir Mistry was working in their house for making the structure of a tile shed on their own land, the accused Palash Dolui raised objection to such construction. According to this witness, when the accused objected, she protested and asserted that the construction was being carried out within

their own land and therefore there was no reason for the accused to interfere. She further stated that during the course of the altercation the accused brought a sabal-like material and directly struck her on the head with the same. As a result of such assault, she lost her senses and sat down on the ground.

- 22.** The injured witness further stated that she subsequently received treatment at S.S.K.M. Hospital, Kolkata and that due to the severe assault she had suffered physical infirmities and was unable to move and walk easily thereafter. During the course of her deposition before the Trial Court, this witness identified the accused present in Court as well as the offending weapon which was marked as Material Exhibit-1.
- 23.** During cross-examination, PW5 stated that the altercation between her and the accused continued for about two to five minutes. She also stated that at the time of the incident PW3, Jharna Pramanick, PW1, Ratan Pramanick and two other persons, namely Aparna Pramanick and Sisir Mistry, were present at the place of occurrence. It is true that Aparna Pramanick and Sisir Mistry were not cited as witnesses on behalf of the prosecution. However, the absence of their examination does not in any manner detract from the

consistent and cogent testimonies of the witnesses who were actually examined.

- 24.** The evidence of PW5, being that of an injured witness, carries significant evidentiary value. Her testimony finds substantial corroboration from the evidence of PW1 with regard to the manner in which the appellant assaulted her with the sabal. A careful scrutiny of their depositions reveals that there is nothing on record which would suggest that the appellant did not commit the assault upon the victim with the said weapon. Both PW1 and PW5 clearly identified the accused person as well as the offending weapon in connection with the incident. Although both witnesses were subjected to cross-examination by the defence, nothing material could be elicited from their cross-examination to render their testimonies unreliable or untrustworthy.
- 25.** PW3, Jharna Pramanick, who is a neighbour of the accused, was examined as an independent witness to the occurrence. In her evidence she stated that on the relevant date and time when the tile shed structure of the house of PW1 and PW5 was being constructed, the accused raised objection to such construction. She further deposed that during the course of the altercation the accused Palash Dolui went to his house, brought a 'sabal' and struck the victim (PW5) on the head with

the said weapon. According to her testimony, as a result of the blow the victim fell down on the ground in a fainted condition and brain matter came out of her head accompanied by profuse bleeding.

- 26.** PW3 further stated that immediately after the incident the victim was taken to the hospital for treatment. She also stated that the police subsequently seized the offending weapon by preparing a seizure list and she put her Left Thumb Impression (L.T.I.) on the said seizure list as a witness to the seizure.
- 27.** Being a neighbour and an independent witness, PW3 had no apparent reason to falsely implicate the accused. Her testimony clearly establishes the role of the appellant in committing the offence and lends further corroboration to the statements made by PW1 and PW5. Although PW3 was also subjected to cross-examination on behalf of the defence, nothing substantial could be elicited to discredit her testimony. Her evidence remains consistent and trustworthy and there is no reason to discard the same.
- 28.** Thus, upon a careful evaluation of the evidence of PW1, PW5 and PW3, it becomes evident that their testimonies are consistent, mutually corroborative and clearly point towards the involvement of the appellant in assaulting the victim with

the 'sabal', resulting in grievous injuries to her head. The defence could not succeed in shaking their credibility through cross-examination, and therefore their evidence inspires confidence and can safely be relied upon.

- 29.** The evidence of PW1, PW3, and PW5 receives strong corroboration from the medical evidence of PW6, Dr. Sudakshina Bhar, who treated the victim immediately after the incident. In her deposition, PW6 stated that upon examination she found a lacerated injury on the victim's head. The victim was admitted to the hospital in an unconscious state and had also vomited. PW6 further deposed that six stitches were required to close the laceration. According to the history recorded in the injury report, the assault was perpetrated by the accused, Palash Dolui @ Tanai, using a 'sabal' at Simultala, behind the house of the victim.
- 30.** PW6 described the nature of the injury as grievous and noted that the injury was of recent origin at the time of examination. She also observed that the weapon used was probably a blunt object. PW6 exhibited the injury report before the Court, which was marked as Exhibit-3. In her professional opinion recorded in the said injury report, she stated that the lacerated injury sustained by the victim could have been caused by a strike from a 'sabal' like material, which

corresponds to Material Exhibit-1 produced before the Trial Court. Thus, the medical evidence aligns closely with the testimonies of PW1, PW3, and PW5, confirming both the nature of the assault and the weapon used.

- 31.** The defence, in its submissions, raised doubts regarding the place of occurrence of the incident. In this regard, PW7, the Investigating Officer, testified that the place of occurrence was on the pathway near the victim's house. Similarly, PW6, in Exhibit-3, recorded the history of assault and specifically noted that the incident took place at Simultala, behind the house of the victim. Importantly, no questions were put to PW1 and PW3 concerning the exact location, and PW5 herself stated that she sustained the injuries on the house road. When read together, the evidence of the victim, the Investigating Officer (PW7), and the injury report (Exhibit-3) demonstrates that the incident occurred on the pathway adjacent to the victim's house. The Trial Court rightly observed that for legal and evidentiary purposes, the term "house" encompasses the area of the house, including adjoining pathways, and is not confined to any single room. Therefore, the minor discrepancy regarding the precise location does not amount to a shift in the place of occurrence and cannot weaken the prosecution's

case. The Trial Court's conclusion on this point is both reasonable and justified.

- 32.** At the hearing, the learned Advocate for the appellant argued that although PW1 and PW5 referred to one Sisir Mistry as working on the repair of the victim's house at the time of the incident, the prosecution did not examine him as a witness. The Trial Court addressed this issue in its judgment, noting that Sisir Mistry had been cited as charge-sheeted witness no. 6. However, he was ultimately not examined because he had been "gained over" by the accused and would not have given truthful evidence. The Court considered this explanation sufficient and found no fault with the prosecution's case for not citing him.
- 33.** In sum, the medical evidence of PW6 not only corroborates the testimonies of PW1, PW3, and PW5 regarding the assault and the weapon used but also confirms the grievous nature of the injuries sustained by the victim. The Trial Court correctly considered the minor variation in the description of the place of occurrence and rightly rejected the defence's attempt to discredit the testimonies based on this ground. The reasoning of the Trial Court on these points is well-founded and supported by the evidence on record.

- 34.** The evidence of PW3, Jharna Pramanick, who is an independent witness to the incident, significantly reinforces the testimonies of PW1 and PW5. PW3 specifically deposed that on the relevant date and time, the appellant assaulted the victim with a 'sabal', resulting in grievous injuries. Her deposition is wholly consistent with the accounts given by PW1, the mother-in-law and defacto complainant, and PW5, the injured victim herself. Importantly, there is nothing in the evidence to suggest any previous enmity between PW3 and the accused that could have motivated her to give false testimony. During cross-examination, no question was put to PW3 regarding any purported animosity or prior disputes with the appellant, further lending credibility to her statements. Being an independent witness, her account carries substantial weight and adds significant corroboration to the prosecution's case.
- 35.** Regarding the offending weapon, PW7, the Investigating Officer, deposed that the assault was committed with a 'sabal', which is a pointed but not a sharp-cutting instrument. This evidence is consistent with the medical observations regarding the nature of the injury. PW4, Monoranjan Koley, also deposed that in his presence, the police seized the sabal along with blood-stained earth and blood-stained bamboo leaves from

the place of occurrence. He further stated that he put his signature on the seizure list and identified the materials in Court. Although PW4 mentioned in his cross-examination that he signed the seizure list at the police station under the instruction of a superior officer referred to as "Borobabu," this does not affect the credibility of the seizure itself. Additionally, PW3, an independent witness, confirmed that she put her Left Thumb Impression (L.T.I.) on the seizure list of the offending weapon and other materials, providing independent corroboration of the proper seizure procedure.

- 36.** Upon careful appreciation of all the evidence, including the oral testimonies and medical documents, particularly Exhibit-3, it is evident that the appellant assaulted the victim with the 'sabal' (Material Exhibit-1). PW6, Dr. Sudakshina Bhar, opined that the injury sustained by the victim was grievous in nature, caused by the strike of a blunt, pointed instrument, consistent with the 'sabal'. There is no material on record to suggest that the victim was not assaulted or that the accused was not responsible for the act. The offending weapon was recovered, produced before the Court, and properly marked as an exhibit, and was identified in Court by PW1, PW3, and PW5.
- 37.** In conclusion, the combined evidence of PW1, PW3, PW4, PW5, PW6, and PW7 establishes beyond reasonable doubt that

the appellant assaulted the victim on the relevant date and time with the 'sabal', resulting in grievous injuries. The medical report (Exhibit-3) corroborates the ocular evidence, confirming the grievous nature of the injury and linking it directly to the assault by the accused. The prosecution's case regarding the assault is thus fully substantiated and reliable.

- 38.** For the reasons discussed above, the impugned judgment and order of conviction passed by the learned Trial Court, convicting the appellant under Section 325 of the Indian Penal Code, is fully justified. There is no ground to interfere with the finding of guilt, and the conviction is therefore sustained.
- 39.** On a careful and comprehensive examination of the facts and circumstances of the present case, it emerges that the incident in question took place as far back as the year 2008, and the appeal has remained pending before this Court since the year 2010. The records further reveal that the appellant was initially arrested on 29th July, 2008, and was subsequently enlarged on bail by the learned Trial Court on 12th August, 2008. Since then, the appellant has continued to remain on bail without interruption. Significantly, there is nothing on record to suggest that during this prolonged period the appellant has indulged in any further criminal activity or misused the liberty granted to him.

- 40.** In this backdrop, it is of considerable relevance that nearly seventeen years have elapsed since the date of occurrence, and more than fifteen years have passed since the filing of the present appeal. Such an inordinate delay in the final adjudication of the appeal cannot be overlooked. It necessarily invites the application of the well-recognized principle of judicial leniency in sentencing on account of protracted delay. The Court is, therefore, called upon to consider whether, at this distant point of time, it would be just, fair, and proper to direct the appellant to undergo the remaining part of the substantive sentence.
- 41.** It is a matter of judicial notice that the concept of justice is not confined merely to the imposition of punishment but extends to ensuring fairness, reasonableness, and timeliness in the administration of criminal justice. The right to a speedy trial is an integral and inseparable facet of the right to life and personal liberty as enshrined under Article 21 of the Constitution of India. Any undue and unexplained delay in the disposal of criminal proceedings, particularly when such delay is not attributable to the accused, amounts to a violation of this fundamental right.
- 42.** The prolonged pendency of the appeal, coupled with the mental agony, uncertainty, and social stigma endured by the

appellant over the years, are factors which cannot be ignored while considering the question of sentence. The sword of litigation hanging over the head of the appellant for such an extended period itself operates as a form of punishment.

- 43.** In such circumstances, the courts have consistently recognized that undue delay in the conclusion of criminal proceedings may constitute a valid ground for adopting a lenient approach in the matter of sentencing. The judicial discretion vested in appellate courts permits them to appropriately mould the sentence so as to balance the ends of justice. This may, in suitable cases, include reduction of the substantive sentence of imprisonment or even substitution thereof with a sentence of fine, particularly where the accused has remained on bail for a long period without any adverse conduct.
- 44.** Therefore, having regard to the totality of circumstances, including the long lapse of time since the occurrence, the prolonged pendency of the appeal, the continuous compliance of bail conditions by the appellant, and the absence of any subsequent criminal conduct, it becomes a fit case where the principle of leniency in sentencing deserves due consideration, so as to advance the cause of substantive justice.

- 45.** In the present case, there is no infirmity in the Trial Court's finding of guilt. The conviction of the appellant is affirmed. However, in view of the exceptional delay spanning nearly seventeen years I am inclined to modify the sentence. The sentence of one year's imprisonment awarded by the Trial Court is reduced to the period already undergone by the appellant. This adjustment recognizes the undue delay while maintaining the conviction for the offence.
- 46.** At the same time, to meet the ends of justice, the fine imposed by the Trial Court, originally Rs. 500/-, is enhanced to Rs. 10,000/-.
- 47.** This approach aligns with the principles laid down by the Hon'ble Supreme Court in **K. Pounammal v. State Represented by Inspector of Police** reported in **2025 SCC OnLine SC 1784**, where at paragraph 9 the Apex Court observed:

"The prolongation of a criminal case for an unreasonable period is in itself a kind of suffering. It amounts to mental incarceration for the person facing such proceedings. For a person who is convicted and who has appealed against his or her conviction and sentence and who everyday awaits the fate of litigation, spends time in distress. In the present-day system of administration of justice, in

which proceedings have often go on protracted unreasonably and therefore unbearably, the passage of long time itself makes the person suffer a mental agony."

- 48.** Dismissing the appeal and confirming the conviction with modification, the Apex Court ordered that-

"The sentence awarded to the appellant is accordingly reduced to the actual undergone. At the same time the imposition of fine is required to be increased. The appellant shall be liable to pay fine of ₹25,000/- over and above originally imposed."

- 49.** Accordingly, the present appellant is not required to undergo any further jail sentence. However, he is directed to deposit the enhanced fine of Rs. 10,000/- within three months from today. In the event that the appellant has already paid Rs. 500/-, he shall be liable to deposit only the remaining Rs. 9,500/-. In default of the payment of fine the appellant shall undergo imprisonment for two months.

- 50.** In conclusion, the conviction of the appellant is affirmed, the substantive jail sentence is set off to the period already undergone, and the fine is enhanced to Rs. 10,000/- to ensure justice is met. This approach balances the principles of accountability for the offence with the equitable consideration arising from the undue delay in the disposal of the appeal.

- 51.** The appeal stands **partly allowed**.
- 52.** The appellant is on bail, and his bail bond shall stand cancelled.
- 53.** Let a copy of this judgment along with the Trial Court record be sent down to the Trial Court immediately.
- 54.** Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)