

Form No.J(1)

**IN THE HIGH COURT AT CALCUTTA**  
*Criminal Appellate Jurisdiction*  
**Appellate Side**

Present :

The Hon'ble Justice Rabindranath Samanta

**C.R.A. 211 of 1986**

**Biswanath Das** ..... Appellant

***Versus***

**The State** ..... respondent

For the State : Mr. S.G. Mukerji, learned P.P.

Heard on : 27.01.2022.

Judgment on : 27<sup>th</sup> January, 2022.

**Rabindranath Samanta, J:**

Despite service of administrative notice upon the appellant and several opportunities are given to him, none appears for the appellant.

Mr. Saswata Gopal Mukerji, learned Public Prosecutor, submits that the Court may pass necessary order after going through the evidence on record.

The instant criminal appeal has been preferred by the appellant Biswanath Das against the judgment and order of conviction passed by the learned XIth Bench of the City Sessions Court, Calcutta in Sessions Trial No. 1 of March, 1986. By the impugned judgment the appellant was convicted for commission of offence punishable under Sections

489B and 489C of the Indian Penal Code and he was sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.2,000/-, in default, to suffer rigorous imprisonment for one year.

The prosecution case may briefly be stated as follows:

On 28<sup>th</sup> December, 1983 shortly after 10:30 a.m., the appellant who had an account with Central Bank of India, Grey Street Brnach, Kolkata came to the bank to deposit a sum of Rs.10,000/- in his savings account. Baikunteswar Nath Daw counting the denominations of the notes, he found that the currency notes appear to him forged. Thereafter, he called the Chief Cashier Raja Ram Jha for verification. After verification it is found that the currency notes which were deposited by the appellant/convict with the bank were counterfeit.

On the aforesaid allegations an FIR was lodged with the Burtolla P. S. and Burtolla P.S. Case no. 478 dated 28<sup>th</sup> December, 1983 was registered against the appellant for investigation. During the course of investigation, the appellant was arrested and he was produced before the Court. After completion of the investigation, the Investigating Officer submitted charge-sheet under Sections 489B and 489C of the Indian Penal Code against the appellant/convict.

In order to bring home charge against the appellant, the prosecution examined as many as four witnesses.

On the basis of the evidence on record, the learned Trial Judge found the appellant/convict guilty of commission of offence under Sections 489B and 489C of the Indian Penal Code. However,

considering the age of the convict and that he was the father of a child, the convict was sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.2,000/-, in default, to suffer rigorous imprisonment for one year.

I have perused the evidence of the prosecution witnesses. As it is evident from the prosecution evidence, I find that the learned Trial Judge was justified in recording the conviction against the appellant/convict.

Therefore, this Court concurs with the conviction recorded by the learned Trial Judge.

Now the question is what will be the quantum of sentence to be imposed upon the appellant.

As quoted above, the learned Trial Judge, taking lenient view, considering the age and family background of the appellant inflicted the sentence as above.

The appellant was arrested on 28<sup>th</sup> December, 1983 and he was produced before the learned Metropolitan Magistrate on the following date i.e., 29<sup>th</sup> December, 1983. He was detained in judicial custody for the period from 29<sup>th</sup> December, 1983 to 3<sup>rd</sup> January, 1984. Thereafter, he was enlarged on bail. After the appellant was convicted and sentenced as above, he was detained in judicial custody for the period from 13<sup>th</sup> April, 1986 to 5<sup>th</sup> June, 1986. This shows that he was in judicial custody for one and half months.

The appellant/convict continued the criminal proceedings launched against him since 28<sup>th</sup> December, 1983. He was convicted on 13<sup>th</sup> April, 1986. Thereafter, the appeal preferred by him in 1986 continued as pending.

Neither the case record nor any information is received from the prosecution whether the appellant/convict is alive or not.

Owing to continuance of the appeal, the appellant/convict suffered worries, mental pains and agonies. As stated above, he has already served out the sentence for one and half months. Considering the long pendency of the criminal proceedings and the instant appeal and the mental pains suffered by the appellant/convict I feel that the sentence as imposed by the learned Trial Judge if reduced to the sentence already undergone by him would sub-serve the interest of justice.

In view of the above, the appeal is dismissed.

The conviction as recorded by the learned Trial Judge in the aforesaid Sessions trial case is confirmed. However, the sentence is reduced to only one and half months which the appellant has already served out.

Thus the appeal is disposed of.

As the appellant has already served out the sentence, he be set at liberty forthwith.

Send down the LCR to the learned Court below along with a copy of this judgment.

**(Rabindranath Samanta, J.)**