

Present
Justice Sk. Tahsin Ali

Criminal Appeal No. 566 of 2008

Mostafizur Rahman Shahin and others
.....Convict-Appellants

-Versus-

The State

----- Respondent

Mr. Md. Nur Alam with

Mr. Md. Abdul Matin Sarker, Advocates

.... for the convict-appellants

Mr. Md. Mizanur Rahman, DAG with

Mr. Md. Ahidul Islam, AAG

Mr. Abdullahil Maruf Fahim, AAG

Ms. Nasima Khatun, AAG

----- For the State

**Heard on: 03.05.2026, 17.05.2026,
18.05.2026, 20.05.2026, 09.06.2026 and
Judgment on: 11.06.2026**

This appeal was directed against the judgment and order 07.01.2008 passed by the Special Tribunal, 1st Court, Meherpur in Special Tribunal Case No. 55 of 2005 arising out of G.R. No. 255 of 2005 corresponding to Meherpur Police Station Case No. 06 dated 17.08.2005 convicting the accused appellants along with other under Section 4 of the Explosive Substance Act and sentencing each of them to suffer rigorous imprisonment for 3(three) years and to pay a fine of Tk. 5000/- in default to suffer rigorous imprisonment for 3(three) months more.

The prosecution case, in short is that on Shahaj Uddin, SI of Police lodged on 17.08.2025 an FIR with Meherpur Police Station against unknown miscreants under Section 3 and 4 of the Explosive Substance Act. Hence, the case.

After investigation the police submitted charge sheet being No. 134 dated 17.11.2005 against 10(ten) accused persons including the present appellants under Section 3/4 and 6 of the Explosive Substance Act. Thereafter, the trial court framed charge against the convict-appellant under Section 3, 4 and 6 of the Explosive Substance Act, in Special Tribunal Case No. 55 of 2005. Upon hearing the parties and considering the evidence on record the learned Special Tribunal, 1st Court, Meherpur found the convict-appellants guilty and by the judgment and order dated 07.01.2008 convicted them under Section 4 of the Explosive Substance Act and sentenced them to suffer rigorous imprisonment for 3(three) years and to pay a fine of Tk. 5000/- in default to suffer rigorous imprisonment for 3(three) months more.

Being aggrieved and dissatisfied with the judgment and order dated 07.01.2008 the convict-appellant preferred this appeal.

During trial the prosecution side examined 21 witnesses to prove the case but none of them deposed anything against the present appellants.

The appeal was admitted on 10.02.2008 all the convict-appellants were enlarged on bail by this Hon'ble court in Criminal Appeal No. 566 of 2008 for a period of 3(thee) months. Thereafter all the accused are enjoying privileged of bail till disposal of the appeal on 15.10.2009. The Lower Court Records (L.C.R) was attached with this appeal on 06.11.2018.

Mr. Md. Nur Alam along with Mr. Md. Abdul Matin Sarker, learned Advocates appearing on behalf of the convict-appellant while Mr. Md. Mizanur Rahman, DAG with Mr. Md. Ahidul Islam, AAG, Mr. Abdullahil Maruf Fahim, AAG, Ms. Nasima Khatun, Assistant Attorney General appeared for the state.

Mr. Md. Nur Alam, learned advocate appeared on behalf of the convict-appellant submits that this is a cause of no evidence, the convict-appellants were not involved with an Islamic organization namely JMB. He further submits that the above-mentioned 5(five) appellants were not named in the FIR, somehow, after investigation, the law-enforcing agencies implicated them in the instant case only on the allegation that, on

the date of occurrence, the appellants were gone Chuadanga District to Meherpur and returned to Chuadanga on the same day. He submits that though 21(twenty-one) witnesses were examined before the trial Court, none of them specifically stated anything regarding the direct involvement of the present appellants with the alleged occurrence. He further submits that 3(three) accused persons, on different occasions, made statements under Section 164 of the Code of Criminal Procedure before the learned Magistrate and claimed themselves to be members of “Allaher Dal”. He further submits that however, the prosecution failed to establish any tangible nexus between “Allaher Dal” and JMB.

Mr. Md. Mizanur Rahman, learned Deputy Attorney General appeared for the state opposes the appeal. Learned DAG scrutinized the allegation, the police report and the depositions of the witnesses but he did not find any nexus with the JMB regarding this appellant.

Heard the learned advocate for the convict-appellants and the learned Deputy Attorney General for the state. It appears from the record that this is an old case. The matter was fixed before this Hon’ble Court on 28.04.2026 and many occasions the matter was taken up for hearing. After conclusion the very lengthy hearing,

the learned advocate appearing on behalf of the convict-appellants and the learned Deputy Attorney General appearing for the state tried their best efforts to assist this Hon'ble Court regarding the alleged involvement of the appellant with the banned organization called JMB.

Considering the above facts and circumstances of the case, upon perusal of the documents on record and evaluation of the judgment and order passed by the trial court, I am of the view that the appeal has merit. Hence, the appeal is allowed.

In the result, the appeal is allowed and the judgment and order 07.01.2008 passed by the Special Tribunal, 1st Court, Meherpur in Special Tribunal Case No. 55 of 2005 is hereby set aside.

Send down the Lower Courts Record.

Communicate the judgment and order at once.

Shokat (B.O.)