

Present:

Mr. Justice Raziuddin Ahmed

Criminal Revision No.204 of 2007

Md. Syedur Rahman alias Mostaq
alias Mostuq

----- Convict-Petitioner

-Vs-

The State represented by the
Deputy Commissioner, Rajbari

----- Opposite Party

No one appears

-----For the Petitioner

Mr. A.S.M. Badrul Anwar D.A.G with
Mr. Md. Taherul Islam (Tawhid), D.A.G
and

Mr. Mohammad Moniruzzaman, A.A.G

----- For the State

Heard on 01.02.2026, 02.02.2026,
15.02.2026 and
Judgment on 24.02.2026

On an application filed under section 439 read with section 435 of the Code of Criminal Procedure, 1898 Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 09.08.2006 passed by the learned Additional Sessions Judge, Rajbari dismissing the Criminal Appeal being Criminal Appeal No.30 of 2004 and upholding the judgment and order of conviction and sentence dated 30.08.2004 passed by the learned Additional District Magistrate, Rajbari arising out of Rajbari P.S. Case No.21 dated 30.05.2000 and corresponding to G.R. Case No.123 of 2000 should not be set aside and/ or

to pass such other or further order or orders as to this Court may deem fit and proper.

The prosecution case, in short, is that one Kazi Md. Alauddin, as informant, lodged a First Information Report with Rajbari Police Station on 30.05.2000 alleging, inter alia, that his brother Kazi Md. Mainuddin, Imam of the local village mosque, was going to the mosque by bicycle for Fajar prayer. At about 4:28 a.m., when he reached near the house of Asan Sheikh, the accused-petitioner obstructed him and threatened to kill him if he moved further. Thereafter, with intent to kill, the accused-petitioner dealt repeated blows with a Chinese axe on different parts of the victim's body.

The victim raised hue and cry, whereupon Hossain Sheikh, A. Aziz, Sohrab Hossain and many others rushed to the place of occurrence and found him lying injured. He was then taken to Faridpur Medical College Hospital. The informant, though not an eye-witness, having heard the incident from the victim, filed the present case.

The investigation officer, after investigation, submitted charge-sheet No.81 dated 18.07.2000 under sections 341/ 323/ 326/ 307 and 109 of the Penal Code against the accused-petitioner and his father.

The learned Additional District Magistrate, Rajbari took up the case for trial and, on 15.07.2001, framed charge under sections 341/ 326/ 307 and 109 of the Penal Code against the accused-petitioner and under sections 341/ 307/ 326/ 109 against the father of the accused person. The accused persons pleaded not guilty and claimed to be tried.

The prosecution examined 8 witnesses out of 15 charge-sheeted witnesses. Upon consideration of the evidence on record, the learned Additional District Magistrate, Rajbari, by judgment and order dated 30.08.2004, convicted the accused-petitioner and sentenced him to suffer rigorous imprisonment for 3 years and to pay a fine of Tk.1,000, in default, to suffer imprisonment for a further period of 3 (three) months.

Being aggrieved, the accused-petitioner preferred Criminal Appeal No.30 of 2004 before the learned Sessions Judge, Rajbari. The appeal was subsequently heard by the learned Additional Sessions Judge, Rajbari, who, by judgment and order dated 09.08.2006, dismissed the appeal and affirmed the judgment and order of conviction and sentence passed by the trial court.

Being aggrieved by and dissatisfied with the aforesaid judgment and order, the accused-petitioner moved this Court in revision and obtained the present Rule along with an order of bail on 08.03.2007.

No one appears to support the Rule on behalf of the accused-petitioner.

Mr. A.S.M. Badrul Anwar, learned Deputy Attorney General, with Mr. Mohammad Moniruzzaman, learned Assistant Attorney General, appearing for the State, oppose the Rule. They submit that the prosecution has successfully proved the charge brought against the accused-petitioner by consistent oral and medical evidence, and both the courts below, upon proper appreciation of the materials on record, rightly convicted and

sentenced him. They further submit that the impugned judgment suffers from no illegality, misreading or non-reading of evidence warranting interference by this Court in revisional jurisdiction.

I have considered the submissions made on behalf of the State, perused the impugned judgments of the courts below and examined the evidence and materials available on record.

At the outset, it may be noted that the revisional jurisdiction of this Court is not intended to operate as a regular appellate jurisdiction. In revision, this Court does not ordinarily re-assess or re-appreciate evidence unless it appears that the findings of the courts below are perverse, based on misreading or non-reading of evidence, or suffer from manifest illegality resulting in failure of justice. Where the courts below have arrived at concurrent findings of fact on proper appreciation of evidence, such findings should not be disturbed lightly.

Section 326 of the Penal Code provides punishment for voluntarily causing grievous hurt by means of any instrument for shooting, stabbing or cutting, or by any instrument which, used as a weapon of offence, is likely to cause death. To bring home a charge under section 326, the prosecution must prove that hurt was voluntarily caused, that the hurt was grievous in nature or caused by a dangerous weapon, and that the accused was responsible for causing such injury. Medical evidence, though corroborative in nature, assumes importance when it supports the ocular testimony regarding the nature and manner of injuries.

In the present case, the prosecution examined 8 witnesses.

P.W.1 Kazi Md. Alauddin, the informant, stated that he came to know about the incident from his brother, the victim. He narrated the facts of the occurrence in detail. He further stated that the victim remained admitted in hospital for 13 days and, even after returning home, it took him 2 to 3 months to recover and resume normal life. He also stated that the victim sustained four blows by a Chinese axe on his head, below the ear and other parts of the body.

P.W.2 Kazi Md. Mainuddin, the victim himself, stated that he was the Imam and Nikah Registrar of Matubbar Para Jame Mosque. On 30.05.2000, at about 4:30 in the morning, while he was going to the mosque for Fajar prayer, the accused-petitioner Saydur Rahman obstructed him and dealt indiscriminate blows with a Chinese axe on different parts of his body. Hearing his cries, P.Ws.3, 4 and 5 came to the place of occurrence and took him to hospital. He remained admitted there for 13 days.

P.W.3 Shamsuddin is an eye-witness. He stated that while he was going to the mosque for Fajar prayer, he saw the accused-petitioner chopping the victim with an axe. He saw injuries on the victim's head and ear, and also noticed injuries on the hip and right side of the chest. He then raised alarm, whereupon Hossain Mollah, Tara Bepari and Moksed came to the place of occurrence.

P.W.4 Mokhlesur Rahman stated that on 30.05.2000, at about 4:00 to 4:30 a.m., he was sitting in the mosque after performing Sunnah prayer. Hearing shouting from outside, he came out and saw Mowlana Mainuddin Kazi and the accused-petitioner near the roadside ditch. He saw the accused-petitioner leaving the place and also noticed injuries on the person of the victim caused by axe blows.

P.W.5 Md. Aziz Sheikh stated that, hearing shouting that someone was killing Moulana Mainuddin Kazi, he rushed to the place of occurrence and found the victim lying on the ground with serious injuries. He saw four injuries on the victim's head, ear and other parts of the body, which appeared to have been caused by axe blows. He also heard people saying that Mostaque had done a wrongful act.

P.W.6 Tara Bepari stated that he was sitting in the mosque after Sunnah prayer. Hearing shouting, he came out and saw Mowlana Mainuddin lying on the ground with serious injuries. He further stated that the victim informed him that Mostaque had attacked him.

P.W.7 Dr. Md. Monirul Islam, Medical Officer, stated that he examined the victim on 30.05.2000 at about 6:15 a.m. and found the following injuries on his body:

1. One sharp cutting injury over the left temporal region of the head measuring about $1\frac{1}{2}'' \times 1'' \times \frac{1}{2}''$;
2. One cut injury over the pinna of the left ear measuring about $1'' \times \frac{1}{2}'' \times \frac{1}{2}''$;

3. One cut injury over the back of the right side measuring about 2" × 1" × ½" approximately;
4. One cut injury over the right gluteal region measuring about 1" × ½" × ½".

In his opinion the nature of injury No.1 and 2 are grievous in nature caused by sharp weapons.

P.W.8 Aynal Haq, Sub-Inspector of Police, stated that he took up investigation of the case, visited the place of occurrence, prepared the sketch map and recorded the statements of witnesses under section 161 of the Code of Criminal Procedure. After investigation, he submitted charge-sheet against the accused-petitioner on 18.07.2000.

On careful scrutiny of the evidence, it appears that P.W.2, the victim, gave a clear and consistent account of the occurrence. His evidence is directly corroborated by P.W.3, an eye-witness, who saw the accused-petitioner assaulting the victim with an axe. P.Ws.4, 5 and 6, though they arrived either during or immediately after the occurrence, also substantially support the prosecution case regarding the place, time, condition of the victim and the involvement of the accused-petitioner. Their evidence is natural and consistent with the surrounding circumstances.

The medical evidence of P.W.7 fully supports the ocular version. The injuries found on the head, ear, back and gluteal region are consistent with blows caused by a sharp cutting weapon such as a Chinese axe. The fact

that the victim had to remain admitted in hospital for 13 days further supports the seriousness of the assault.

Minor discrepancies, if any, in the testimonies of the prosecution witnesses do not go to the root of the case. Rather, the evidence as a whole inspires confidence. The prosecution witnesses are consistent on the material particulars, namely, the time and place of occurrence, the weapon used, the identity of the accused-petitioner and the injuries sustained by the victim.

In criminal cases, the prosecution is required to prove its case beyond reasonable doubt, but such proof does not mean proof beyond all possible doubt. Where the evidence of the injured witness is reliable and is supported by an eye-witness and medical evidence, the conviction can safely be based upon such evidence. An injured witness ordinarily carries special evidentiary value, because his presence at the place of occurrence is established by the injuries sustained by him.

In the present case, the evidence of P.W.2, the injured victim, is trustworthy and has been materially corroborated by P.W.3, the eye-witness, as well as by the medical evidence of P.W.7. The weapon used, the nature of injuries and the manner of assault clearly bring the offence within the mischief of section 326 of the Penal Code.

Both the trial court and the appellate court, upon proper assessment and evaluation of the evidence, arrived at a concurrent finding of guilt against the accused-petitioner. I do not find any misreading, non-reading

of evidence, illegality or perversity in the impugned judgments warranting interference by this Court in revision.

Accordingly, I am of the view that the prosecution has been able to prove the charge against the accused-petitioner beyond reasonable doubt, and the conviction and sentence passed by the trial court and affirmed by the appellate court call for no interference.

In the result, the Rule is discharged.

The order of bail granted earlier by this Court is hereby recalled and vacated.

The accused-petitioner is directed to surrender before the trial court within 30 days from the date of receipt of this judgment, failing which the trial court shall take necessary steps in accordance with law.

Send down the lower court records at once.

Communicate this judgment and order to the courts below immediately.