

Present:

Mr. Justice Raziuddin Ahmed

Criminal Revision No. 130 of 2007

Lokman Hossain Sheikh

----- Petitioner

-Vs-

The State

-----Opposite Party

No one appears

----For the Petitioner

Mr. Md. Asad Uddin, D.A.G with

Mr. Md. Habibur Rahman Sarker, A.A.G and

Mr. Kazi Mohammad Moniruzzaman, A.A.G

---- For the State

Heard on 09.02.2026, 10.02.2026, 21.04.2026,  
22.04.2026, 30.04.2026 and Judgment on  
04.05.2026

On an application filed under section 439 read with section 405 of the Code of Criminal Procedure, 1898 a Rule was issued calling upon the opposite party, to show cause as to why the judgment and order dated 28.09.2005 passed by the learned Additional Sessions Judge, Rajbari dismissing the Criminal Appeal No. 32 of 2004 and upholding the judgment and order of conviction and sentence dated 18.08.2004 passed by the learned Additional District Magistrate, Rajbari arising out of G.R. Case No. 10 of 2000

should not be set aside and and/or pass such other or further order or orders as this Court may deem fit and proper.

The prosecution case, in short, is that one Md. Abdus Sattar, Senior T.T.E. of Bangladesh Railway, as informant, lodged an FIR with Rajbari G.R.P. Police Station alleging, inter alia, that on 29.10.2000 he was on duty as T.T.E. in Train No. 508 which left Rajbari Railway Station at about 16.30 hours. While checking tickets in compartment No. S.R. 3815 after the train had left Kalukhali Railway Station, he found some passengers without valid tickets. On being asked to purchase tickets, they refused. The informant then asked them to vacate the seats for passengers holding valid tickets.

It was further alleged that, when the train reached Pangsha Railway Station, the informant moved to compartment No. C 3733 and started checking tickets there. At about 17.28 hours, while the train was crossing Machpara Railway Station, 6 or 7 passengers, who had earlier been compelled to vacate the seats and who had no valid tickets, attacked him out of grudge. They were armed with wooden sticks. One of them dealt a blow on the head of the informant, causing bleeding injury, and the others assaulted him on different parts of his body. On hearing his hue and cry, other passengers came forward. The informant managed to catch one of the assailants, and another accused was caught by the passengers. When the train reached Khoksha Railway Station, the accused

persons were handed over to the G.R.P. police on duty. The informant was first given primary treatment by a local doctor and was later admitted to Rajbari for further treatment.

After investigation, police submitted charge sheet No. 1 dated 04.01.2001 against the petitioner and another under sections 144, 148, 323, 333 and 353 of the Penal Code. The learned trial court framed charge under sections 323, 333 and 353 of the Penal Code. The charge was read over and explained to the accused, who pleaded not guilty and claimed to be tried.

At trial, the prosecution examined 09 witnesses, while the defence examined none. On consideration of the evidence, the learned Additional District Magistrate, Rajbari, by judgment and order dated 18.08.2004, convicted the accused petitioner under sections 323 and 353 of the Penal Code and sentenced him to suffer rigorous imprisonment for 06 six months under each count.

Being aggrieved, the accused petitioner preferred Criminal Appeal No. 32 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 28.09.2005 dismissed the appeal and affirmed the conviction and sentence passed by the trial court.

Being aggrieved by the said judgment and order, the accused petitioner moved this Court in revision and obtained the present Rule along with an order of bail on 19.02.2007.

No one appears for the petitioner at the time of hearing to support the Rule.

Mr. Asad Uddin, learned Deputy Attorney General appearing for the State, opposes the Rule and submits that the prosecution has proved the charge against the accused petitioner by consistent oral evidence, corroborated by medical evidence. He further submits that both the courts below, on proper appreciation of the evidence on record, arrived at concurrent findings of guilt and there is no illegality, misreading, non-reading or non-consideration of evidence warranting interference by this Court in revisional jurisdiction.

I have heard the learned Deputy Attorney General for the State, perused the impugned judgments of the courts below and examined the evidence and materials on record.

At the outset, it should be noted that revisional jurisdiction is not intended to operate as a regular appellate jurisdiction. This Court does not ordinarily re-assess or re-appreciate evidence in revision 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 lightly be interfered with.

In the present case, P.W.1 Md. Abdus Sattar, the informant and injured victim, deposed that on 29.10.2000, while he was discharging his official duty as Senior T.T.E. in Train No. 508, he found some passengers without valid tickets and asked them either to purchase tickets or vacate the seats for passengers holding tickets. He stated that later, near Machpara Station, the accused persons attacked him with wooden sticks. He specifically stated that accused Abdur Rahman dealt a blow on his head, causing bleeding injury, and that the other accused persons also assaulted him. He further stated that he managed to catch accused Abdur Rahman and that another accused, Lokman, was caught by other passengers.

P.W.4 Jahurul Islam, a passenger in the train, substantially corroborated the evidence of P.W.1. He stated that he saw 4 or 5 persons assaulting T.T.E. Abdus Sattar with wooden pieces and that two of the assailants were caught red handed while the others managed to flee. His evidence appears natural and consistent with the prosecution case.

P.W.6 Md. Billal Hossain, another passenger, stated that he was present in the compartment where the occurrence took place. He

saw 5 or 6 persons attacking T.T.E. Sattar with wooden sticks. He specifically identified accused Abdur Rahman as the person who dealt a blow on the head of the informant and stated that the other accused, Lokman, was caught by the passengers.

P.W.7 Md. Abu Bakkar Siddique also supported the prosecution case. He stated that he was travelling in the same train and saw accused Abdur Rahman and Lokman assaulting T.T.E. Abdus Sattar with wooden sticks, causing bleeding injury. On query by the court, he stated that the altercation arose over railway fare and ticket checking.

P.W.2 Towfiqur Rahman, the railway guard, did not see the actual assault but saw the injured informant at Khoksha Station with bleeding injury and saw two accused persons apprehended. P.W.3 Md. Rejaul Karim, another T.T.E., also did not witness the actual occurrence but saw the injured victim and the arrested accused persons. He proved the seizure of blood stained wearing apparel. P.W.5 Md. Ahsan Habib saw the injured T.T.E. at Khoksha Station and stated that he was taken for treatment. Their evidence supports the prosecution case regarding the immediate aftermath of the occurrence.

P.W.8 Dr. Parijat Kumar Pal examined the injured victim on 30.10.2000 at about 1.00 A.M. and found a cut injury on the left side

of the head extending up to the bone, bleeding from the nose with swelling, 5 or 6 injury marks on the back, and swelling and abrasion on the back of the left hand. He stated that the injury appeared to be grievous in nature. The medical evidence fully supports the ocular evidence that the victim was assaulted by a blunt weapon such as a wooden stick.

P.W.9 Sheikh Lutfor Rahman, the investigating officer, stated that he visited the place of occurrence, prepared the sketch map, examined witnesses, seized blood stained articles and, on completion of investigation, submitted charge sheet against the accused persons.

On scrutiny of the evidence, it appears that P.W.1, being the injured witness, gave a clear, consistent and trustworthy account of the occurrence. His evidence is materially corroborated by P.W.4, P.W.6 and P.W.7, who were eyewitnesses. The evidence of P.W.2, P.W.3 and P.W.5 supports the prosecution case regarding the condition of the injured victim immediately after the occurrence and the apprehension of the accused persons. The medical evidence of P.W.8 also fits with the prosecution version as to the weapon used and the nature of injuries sustained.

Minor discrepancies as to whether the injury was seen on the left or right side of the head are not material in the facts and circumstances of the case. Such minor variations are natural and do

not affect the core prosecution case, namely, that the informant was assaulted while discharging his official duty as T.T.E. and that the accused petitioner was one of the assailants apprehended at or immediately after the occurrence.

The evidence on record clearly establishes that the victim was assaulted and voluntarily caused hurt. The conviction under section 323 of the Penal Code is therefore supported by evidence. The evidence further establishes that the victim was a railway T.T.E. performing his official duty of checking tickets and that the assault was made in consequence of and in retaliation for acts done by him in discharge of that duty. The ingredients of section 353 of the Penal Code are also sufficiently proved.

It is true that the charge included section 333 of the Penal Code and the doctor stated that the injury appeared to be grievous. However, the courts below convicted the accused petitioner only under sections 323 and 353 of the Penal Code. There is no appeal or revision by the State for enhancement or alteration of conviction. In a revision preferred by the accused petitioner, and in the absence of any proceeding for enhancement with due notice, this Court does not consider it necessary or proper to enter into any question of converting the conviction into a graver offence.

The sentence of rigorous imprisonment for 06 six months under section 323 of the Penal Code and rigorous imprisonment for 06 six months under section 353 of the Penal Code is within the statutory limit. Considering the nature of the offence, the fact that the assault was committed upon a public railway servant while he was discharging his lawful duty, and the injury sustained by him, the sentence cannot be said to be excessive or illegal.

Both the trial court and the appellate court, upon proper assessment of the evidence, arrived at concurrent findings of guilt against the accused petitioner. I do not find any misreading, non-reading, non-consideration of material evidence, illegality or perversity in the impugned judgments warranting interference by this Court in revision.

Accordingly, the conviction and sentence passed by the learned trial court and affirmed by the learned 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 thirty days from the date of receipt of this judgment,

failing which the trial court shall take necessary steps in accordance with law to secure his arrest and ensure execution of the sentence.

Send down the lower court records at once.

Communicate the judgment and order immediately.