

Present:

Mr. Justice Raziuddin Ahmed

Criminal Revision No.1150 of 2007

Md. Monowar Hossain

----Convict-Appellant-Petitioner

-Vs-

The State

---- 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 16.02.2026, 17.02.2026, 18.02.2026, 22.02.2026,
02.03.2026 and Judgment on 05.03.2026**

On an application filed under section 439 read with section 435 of the Code of Criminal Procedure, 1898 Rule was issued calling upon the Deputy Commissioner, Chuadanga to show cause as to why the judgment and order dated 16.05.2007 passed by the learned Additional Sessions Judge, Court No.1, Chuadanga in Criminal Appeal No.20 of 2004 affirming the judgment and order dated 04.03.2004 passed by the learned Assistant Sessions Judge, 2nd Court, Chuadanga in Chuadanga P.S. Case No.19 dated 17.11.2001 corresponding to G.R. Case No.292 of 2001 should not be set aside and/or such other or further order or orders passed as to this court may seem fit and proper.

The prosecution case, in short, is that one Shaheen Chowdhury lodged a First Information Report with Chuadanga Police Station alleging, inter alia, that on 17.11.2001 at about 6:50 p.m., his mother, P.W-2 Zahanara Begum, while returning home and reaching near a Government Primary School at Mohammadjuma village, was allegedly accosted by the accused-petitioner, Md. Monowar Hossain, who, being armed with illegal arms, attempted to snatch her vanity bag and forcibly dragged her towards a banana garden. It is further alleged that upon being identified, the accused pressed his leg on her throat with intent to kill. Upon her alarm, two passersby, namely Md. Saiful Islam and Md. Mukter Ali, rushed to the spot, whereupon the accused fled away. The informant, having come to learn about the occurrence from his mother, lodged the FIR on 17.11.2001.

The Investigating Officer after investigation submitted charge sheet being charge sheet No.162 date 18.12.2001 under sections 392/511 of the Penal Code against the accused-petitioner.

The case was then transferred to the court of the learned Sessions Judge, Chuadanga for trial on 10.04.2002. The learned Sessions Judge then took cognizance of the case and after registering the case as Session Case No.32 of 2002, sent the case to the learned Assistant Sessions Judge, Court No.2, Chuadanga for hearing.

The charge was framed under section 392 of the Penal Code against the accused-petitioner on 14.08.2002. At the time of trial, the prosecution examined 11 witnesses and the defence produced none. After

conclusion of hearing the present petitioner was examined under section 342 of the Code of Criminal Procedure where the accused-petitioner pleaded not guilty.

The learned Assistant Sessions Judge, 2nd Court, Chuadanga on 04.03.2004 found the accused-petitioner guilty under section 392 of the Penal Code and sentencing him to suffer rigorous imprisonment for 3(three) years and to pay fine of Tk.1,000/- in default to suffer rigorous imprisonment for a period of 3(three) months.

Against the said judgment and order of conviction and sentence dated 04.03.2004 the accused-petitioner preferred an appeal being Criminal Appeal No.20 of 2004 before the learned Sessions Judge, Chuadanga. The learned Sessions Judge, Chuadanga by his judgment and order dated 16.05.2007 affirmed the judgment and order of conviction and sentence dated 04.03.2004.

Being aggrieved by and dissatisfied with the judgment and order dated 16.05.2007 the accused-petitioner filed this revisional application and obtained a Rule on 10.09.2007.

This revisional application appeared in the list on 16.02.2006 for hearing. Subsequently, it appeared in the list for hearing on 17.02.2006, 18.02.2006, 22.02.2006 and 02.03.2006.

No one appears on behalf of the petitioner at the time of hearing.

Mr. A.S.M. Badrul Anwar, learned Deputy Attorney General submits that the prosecution has been able to prove the charge against the

accused-petitioner beyond reasonable doubt and both the courts below have rightly convicted the petitioner.

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

The charge against the accused-petitioner is under section 392 of the Penal Code, which relates to robbery. To sustain a conviction under the said section, the prosecution must prove beyond reasonable doubt that the accused committed robbery by putting the victim in fear of instant death, hurt, or wrongful restraint.

It is now well-settled that in a criminal case the burden lies entirely upon the prosecution to prove its case beyond reasonable doubt and such burden never shifts. The accused is entitled to the benefit of doubt if any reasonable doubt arises from the evidence on record.

Upon scrutiny of the evidence, it appears that P.W-1, the informant, is not an eye-witness and admitted in his deposition that he learned about the occurrence from his mother. He further stated that his mother disclosed the name of the accused to him. However, P.W-2, the victim herself, categorically stated in her cross-examination that she did not mention the name of any accused to her son.

This contradiction strikes at the root of the prosecution case regarding the identity of the accused.

Further, P.W-3, an alleged witness to the occurrence, stated that although the victim claimed her vanity bag was snatched, she did not disclose the name of any accused. Similarly, P.W-5 also failed to identify the accused. P.W-7, the husband of the victim, gave inconsistent statements, at one stage stating that the accused was Monowar, and subsequently stating that a person resembling Monowar committed the act. P.W-8 admitted that the name of the accused was mentioned based on assumption.

Thus, there are serious inconsistencies and contradictions among the prosecution witnesses regarding the identity of the accused and the manner of occurrence.

It is also settled that where the prosecution case suffers from material contradictions, inconsistencies, and embellishments affecting the core of the case, such evidence cannot be relied upon for sustaining a conviction. It is also a cardinal principle of criminal jurisprudence that the identity of the accused must be proved beyond reasonable doubt. Where the identity is doubtful or based on assumption, the conviction cannot be sustained.

Moreover, delay in lodging the First Information Report, if not satisfactorily explained, creates suspicion about the truthfulness of the prosecution case and may lead the Court to draw an adverse inference. In the present case FIR was lodged after a delay of 10 days from the date of occurrence. Although it has been stated that the victim was ill, but no medical document has been produced to substantiate such claim. The

delay remains unexplained and casts serious doubt upon the prosecution case.

Applying the settled principles of law as discussed above, it becomes evident that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

In the facts and circumstances of the case and upon consideration of the evidence on record, I find that the prosecution has failed to prove the charge against the accused-petitioner beyond reasonable doubt.

Accordingly, the Rule is made absolute.

The judgment and order dated 16.05.2007 passed by the learned Additional Sessions Judge, Court No.1, Chuadanga in Criminal Appeal No.20 of 2004 affirming the judgment and order dated 04.03.2004 passed by the learned Assistant Sessions Judge, 2nd Court, Chuadanga are hereby set aside.

The accused-petitioner is acquitted of the charge.

The bail bond, if any, stands discharged.

Let the lower Court records be sent down at once.