



2025:DHC:10865-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6819/2025**

BISWAJIT GHOSH

.....Petitioner

Through: Mr. Sahil Mongia and Ms.
Sanjana Samor, Advs.

versus

UNION OF INDIA AND ORS

.....Respondent

Through: Mr. Manish Kumar, Sr. PC for
UOI with SI Atul Singh and Constable
Sandeep

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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03.12.2025

C. HARI SHANKAR, J.

1. Criminal proceedings were instituted against the petitioner consequent on registration of PS Case No.693/2019 under Sections 447/323/354 read with Section 34 of the Indian Penal Code¹ against him *vide* FIR 693/2019 at PS Harishchandrapur, Malda, West Bengal on 23 September 2019.

2. While the said proceedings were pending, the petitioner applied, consequent to an advertisement inviting applications for recruitment to the post of Constable/GD in the Central Industrial Security Force². An offer of appointment was issued to the petitioner on 20 December

¹ "IPC", hereinafter

² "CISF", hereinafter



2024. The petitioner was required to disclose the pendency of any criminal case pending against him and the status thereof. The petitioner duly disclosed the fact that he was an accused in PS Case No.693/2019 under Sections 447/323/354 read with 34 IPC.

3. After the issuance of offer of appointment to the petitioner, but before he joined duty with respondents, the learned JMFC³, Chanchal, Malda, *vide* judgment dated 29 January 2025, acquitted the petitioner of the charges against him. The judgment is short and may be reproduced in *extenso* thus:

“JUDGMENT

In this case one written complaint was filed by the defacto complainant namely Mamoni Parihar before the Ld. ACJM, Chanchal under Sec. 156 (3) of Cr.P.C., on the basis of which Harischandrapur PS case no. 693 of 2019 dated 23.09.2019 under Sections 447/323/354/34 of I.P.C has been initiated. The brief fact of the prosecution's case is that the on 24.08.2019 at about 10 AM near one tube well the accused No.8 started abusing the mother of the defacto complainant in filthy languages and later on, all the accused persons came to the house of the defacto complainant and again abused her and he mother and on protest, they started assaulting defacto complainant and her mother mercilessly. It has been further alleged by the defacto complainant that the accused persons also tried to rape her by dragging her inside a room and when she screamed for help, the accused persons tried to kill her by strangulation. Thereafter, when the neighbouring people rushed to place of occurrence, the accused persons fled away and upon threatening her with dire consequences. Thereafter she was taken to Harishchandrapur Hospital for treatment. The defacto complainant has further contended that although she informed about the alleged incident to the Police, but Police did not take any action against the accused persons. Hence, this case.

After the evidence of prosecution, the accused persons are examined under section 313. However, The accused persons declined to adduce any defence witness.

³ Judicial Magistrate First Class



POINTS FOR CONSIDERATION

1. Whether the prosecution has proved the guilt of the accused persons beyond all reasonable doubt?
2. Whether the accused persons are guilty of the offence punishable u/s 447/323/354/34 OF I.P.C. of I.P.C.?

DECISION WITH REASONS

In this case, the defacto complainant stated in her written complaint that on 24.08.2019 at about 10 AM the accused persons assaulted the defacto complainant and her mother and also outraged her modesty.

In order to crystallize its case, the prosecution has examined the CSW-1 namely Mamoni Parihar, the defacto complainant as PW-1. In her examination -in-chief, PW-1 identified the accused persons before the Court, but failed to corroborate the prosecution case and deposed that she lodged the complaint out of misunderstanding and at present she has no allegations against the accused persons. She also deposed that Police never interrogated her. However, she identified her signatures in the court complaint, which have been marked as Exbt.1 collectively.

CSW 2 namely Biswa Mahaldar deposed as PW2 and CSW 4 namely Reba Das, who is the mother of the defacto complainant and one of the injured as mentioned in the FIR deposed as PW3. But they deposed in the same tune and stated nothing incriminatory against the accused persons.

Except these three witnesses, the prosecution does not examine any other witness to prove its case. Therefore, upon careful scrutiny of the evidence on record it appears that the prosecution has failed to bring home the charges against the accused persons as brought in the FIR and failed to prove the involvement of the accused persons in the alleged incident. So, I am constrained to hold that the prosecution has failed to prove the case beyond reasonable doubts.

Accordingly, all the accused persons are liable to be held innocent.

Hence it is,

ORDERED

that the twelve (12) accused persons namely, 1) BABLU GHOSH 2) BISHWAJIT GHOSH, 3) SUREN GHOSH, 4) SHIPRA GHOSH, 5) TUTLI GHOSH, 6) RINA GHOSH, 7)



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SIMA PANDAY, 8) KANIKA DAS, 9) TAROKA PARIHAR, 10) MANMUN GHOSH, 11) RANJIT SWARNAKAR, 12) SOMA GHOSH are found not guilty for committing offence under sections 447/323/354/34 OF 1.P.C. of the I.P.C and accordingly, they are acquitted in terms of section 248(1) Cr.P.C.

The bail bonds furnished by the accused persons are extended for six months as per provision of Section 437A of Cr.P.C. All the accused persons be set at liberty at once.

The victim is at liberty to prefer an appeal under proviso to Section 372 of Cr.P.C. and if necessary to avail free legal assistance through Legal Services Authority to prefer and prosecute such appeal.

Let a copy of this judgment be sent to the District Magistrate and DLSA, Malda for due intimation to the victim of his/her right of appeal against the judgment of acquittal.

This case is thus disposed of. Note in the TR, CIS and other relevant registers.”

4. Subsequently, a Standing Screening Committee of the respondents, on 9 May 2025, declared the petitioner to be unsuitable for appointment in the CISF owing to his having been involved in the aforementioned criminal proceedings. His candidature was, therefore, cancelled by a letter issued on the same date, which was communicated to him.

5. Aggrieved thereby, the petitioner has instituted the present writ petition before this Court, seeking quashing of the letter of cancellation of his appointment and reinstatement in the CISF.

6. We have heard Mr. Sahil Mongia, learned Counsel for the petitioner and Mr. Manish Kumar, learned Senior Panel Counsel for the respondents, at some length.



7. The issue stands, in our view, is fully covered by the judgments of the Supreme Court in *Avtar Singh v. Union of India*⁴ and *Ravindra Kumar v. State of UP*⁵, which we have also followed in *Srikanta Gorain v. Union of India*⁶.

8. These decisions hold that the mere institution of a criminal case against the petitioner could not be a ground to disqualify him from service. The authorities would also have to examine the nature of the charges and as to whether the acquittal of the petitioner was honourable or on the basis of benefit of doubt or because the witnesses turn hostile.

9. It is also settled that the Court is not expected to be unduly influenced by the use of the words “benefit of doubt” or “beyond reasonable doubt” by the learned Criminal Court while acquitting the accused but has to examine the order holistically to ascertain whether the acquittal was actually honourable or on benefit of doubt.

10. In the present case, a bare reading of the impugned order reveals that the complainant, on the basis of whose complaint the criminal proceedings had been instituted against the petitioner, specifically deposed before the Criminal Court that the entire episode was the result of a misunderstanding and that she had no grievance against the petitioner.

11. In that view of the matter, the very substratum of the criminal

⁴ (2016) 8 SCC 471

⁵ (2024) 5 SCC 264

⁶ MANU/DE/8089/2025



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proceedings against the petitioner stood eroded.

12. The case, therefore, stands, if at all, at a higher pedestal than a case where proceedings validly instituted and resulted in honourable acquittal. In the present case, when the complainant herself made a statement that the complaint was instituted on the basis of a misunderstanding, it would be a complete travesty of justice to disqualify the petitioner from appointment as Constable/GD on the basis of the said proceedings.

13. We are, therefore, of the view that the matter was not holistically examined by the Standing Screening Committee in its meeting dated 9 May 2025. The Committee appears to have proceeded mechanically on the basis of the fact that certain criminal proceedings have been instituted against the petitioner, without properly appreciating the upshot of the final order of acquittal.

14. In view of our aforesaid discussion, we are of the opinion that the decision to cancel the candidature of the petitioner is not sustainable in law or on facts. It is accordingly quashed and set aside.

15. The petitioner would, therefore, be entitled to be appointed as Constable/GD consequent to the offer of appointment dated 20 December 2024 which was issued to the petitioner.

16. We direct the respondents to issue an appointment order to the petitioner within a period of four weeks from today.



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17. The writ petition stands allowed in the aforesaid terms with no order as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 3, 2025/aky