IN THE HIGH COURT AT CALCUTTA

(CRIMINAL APPELLATE JURISDICTION)

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PRESENT:

THE HON'BLE JUSTICE MD. MUMTAZ KHAN

AND

HON'BLE JUSTICE JAY SENGUPTA

CRA 426 of 2015

With

CRAN 1152 of 2018

Sri Chhatradhar Mahato & Others

Versus

The State of West Bengal

&

CRA 425 of 2015

Raja Sarkhel & Anr.

Versus

The State of West Bengal

For the appellants : Mr. Sekhar Kumar Basu
Mr. Soubhik Mitter
Ms. Arushi Rathore
Ms. Rajnandini Das
.....Advocates

For the respondent : Mr. Kishore Datta
.....Learned Advocate General
Mr. Saswata Gopal Mukherjee
.....Learned Public Prosecutor
Mr. Ranabir Ray Chowdhury
Ms. Trina Mitra
.....Advocates

Heard lastly on : 02.08.2019

Judgment on : 14.08.2019

Jay Sengupta, J.:-

1. These appeals are directed against the judgment and order of conviction dated 11.05.2015 and sentenced dated 12.05.2015 passed by the learned Additional Sessions Judge, 4th Court, Paschim Medinipur in Sessions Trial No. XLVI/March/2010. By the said judgment, while accused Chhatradhar Mahato, Sambhu Soren alias Lalu, Sagun Murmu, Suksanti Baskey, Raja Sarkhel and Prasun Chatterjee alias Bhutan were acquitted from the charge under Section 307 read with section 34 of the Penal Code, the accused Chhatradhar Mahato, Sambhu Soren, Sagun Murmu and Suksanti Baskey were exonerated of the charges under Sections 16(1)(b) and 17 of the Unlawful Activities (Prevention) Act (the UAPA, for short), the accused Sambhu Soren alias Lalu and Sagun Murmu were acquitted from the charge under Section 3 of the Explosive Substances Act and the accused Suksanti Baskey and Chhatradhar Mahato were exonerated from the charge under Section 4(b) of the said Act, the following accused/appellants were convicted and sentenced as herein below :

Sl. No	Name of accused	Conviction for offence committed under Section	Sentence awarded
1.	Chhatradhar Mahato	121 of IPC	Life imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another six months.
		121 A of IPC	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another four months.
		122 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another three and half months.
		123 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another four months.

		124A of IPC	Rigorous imprisonment for life.
		18 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
		38(2) of UAPA	08 years' imprisonment.
		39(2) of UAPA	08 years' imprisonment.
		40(2) of UAPA	08 years' imprisonment.
		20 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
		25(1)(b) of the Arms Act, 1959	05 years' imprisonment with fine of Rs. 3000/-, in default to suffer further simple imprisonment for three months.
2.	Sambhu Soren alias Lalu	121 of IPC	Life imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another six months.
		121 A of IPC	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another four months.
		122 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another three and half months.
		123 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another four months.
		124A of IPC	Rigorous imprisonment for life.
		18 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
		38(2) of UAPA	08 years' imprisonment.
		39(2) of UAPA	08 years' imprisonment.
		40(2) of UAPA	08 years' imprisonment.
		20 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
3.	Sagun Murmu	121 of IPC	Life imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another six months.

		121 A of IPC	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another four months.
		122 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another three and half months.
		123 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another four months.
		124A of IPC	Rigorous imprisonment for life.
		18 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
		38(2) of UAPA	08 years' imprisonment.
		39(2) of UAPA	08 years' imprisonment.
		40(2) of UAPA	08 years' imprisonment.
		20 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
4.	Suksanti Baskey	121 of IPC	Life imprisonment with fine of Rs.5000/-, in default to suffer further simple imprisonment for another six months.
		121 A of IPC	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another four months.
		122 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another three and half months.
		123 of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another four months.
		124A of IPC	Rigorous imprisonment for life.
		18 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
		38(2) of UAPA	08 years' imprisonment.
		39(2) of UAPA	08 years' imprisonment.

		40(2) of UAPA	08 years' imprisonment.
		20 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
5.	Raja Sarkhel	121/120(B) of IPC	Life imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another six months.
		121 A of IPC	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another four months.
		122/120(B) of IPC	07 years' imprisonment with fine of Rs. 3,500/-, in default to suffer further simple imprisonment for another three months.
		123/120(B) of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another four months.
		124A/120(B) of IPC	Rigorous imprisonment for life.
		18 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
		38(2) of UAPA	08 years' imprisonment.
		39(2) of UAPA	08 years' imprisonment.
		40(2) of UAPA	08 years' imprisonment.
6.	Prasun Chatterjee alias Bhutan	121/120(B) of IPC	Life imprisonment with fine of Rs.5000/-, in default to suffer further simple imprisonment for another six months.
		121 A of IPC	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for another four months.
		122/120(B) of IPC	07 years' imprisonment with fine of Rs. 3,500/-, in default to suffer further simple imprisonment for another three months.
		123/120(B) of IPC	08 years' imprisonment with fine of Rs. 4000/-, in default to suffer further simple imprisonment for another four months.
		124A/120 (B) of IPC	Rigorous imprisonment for life.

		18 of UAPA	10 years' imprisonment with fine of Rs. 5000/-, in default to suffer further simple imprisonment for six months.
		38(2) of UAPA	08 years' imprisonment.
		39(2) of UAPA	08 years' imprisonment.
		40(2) of UAPA	08 years' imprisonment.

2. On 26.09.2009 at about 18.45 hours, PW 1, a Sub Inspector of Police, lodged a *suo motu* First Information Report against the accused Chhatradhar Mahata, Sambhu Soren alias Lalu, Ranjit Murmu, Sagun Murmu, Koteswar Rao, Bikash, Sasadhar Mahato, Lalmohan Tudu, Santosh Patra, Sido Soren, and Comrade Bornali under Sections 120B, 121, 121A, 124-A, 307 of the Penal Code, Sections 3 and 4 of the Explosive Substances Act and Sections 17, 18, 20, 38, 39 and 40 of the UAPA leading to the registration of Lalgarh Police Station Case No. 161 dated 26.09.2009. It was alleged that PW 1 along with other officers and constables of the Lalgarh Police Station and the forces of the CRPF left for working out an information regarding terrorist activities. After crossing Dalilpur village, when they came to a place, after passing a baniyan tree at about 13.35 hours on 26.09.2009, suddenly an explosion occurred on the left side of 'morum' road at the base of a date tree. Luckily no one was injured. During the search for the remnants of the IED, an electric wire was found stretching up to a nearby bush in the field. The raiding party followed the wire up to the bush and found four persons including the accused Sambhu Soren, Ranjit Murmu and Sagun Murmu hiding behind the bush. While they could nab the three men, the fourth

one escaped. After search, a flash-gun was recovered from the accused Sagun Murmu. The apprehended accused disclosed their identities and confessed that they exploded the IED as per order of Chhatradhar Mahato and Kishanji who were the leaders of Police Santras Birodhi Janasadharaner Committee (the PSBJC, for short) and CPI (Maoist), respectively and who had supplied the bomb to them. Chhatradhar Mahato, Kishanji, Bikash and others had been staying for a meeting at Birkar village. Then the raiding party proceeded for Birkar following the way as was shown by the accused Sagun Murmu. At about 14.25 hours they reached Birkar village and noticed about six or seven persons engaged in a conversation in a very low voice under the cover of hedges. The raiding party immediately chased them and could apprehend Chhatradhar Mahato with printed gazettes styled as Guerilla Barta, 4th edition, August 2007 and Biplabi Jug Potrika, May 2007 edition. But, the others fled away by opening fire from their firearms. They could identify Sido Soren, Santosh Patra, Sasadhar Mahato, Lalmohan Tudu while Chhatradhar Mahato stated that the others were Kishnaji and Bikash. The said Chhatradhar Mahato confessed that he and Kishanji had procured explosives and mines and supplied the same to Sagun Murmu, Shambhu Soren and Ranjit Murmu directing them to plant them on the roadside at Dalilpur village to prevent police from moving into the areas as they had a meeting scheduled nearby. Chhatradhar Mahato and others were the activists of CPI (Maoist), which was an organization banned by the Central Government, but was continuing with its terrorist activities in different areas of Paschim Medinipur district and the adjacent districts. They were having an organizational

network with their counterparts in Jharkhand. This terrorist group indulged in various criminal activities including committing murder of police personnel and political persons, looting firearms from police and extorting money from different businessmen and thereby creating a reign of terror covering vast areas. It was alleged that the accused had entered into a conspiracy for abetting waging of war against the Central Government as well as the State Government to overawe them by show of criminal force. The CPI (Maoist) and the PSBJC had brought and attempted to bring hatred, contempt and excite disaffection towards the Governments established by law. The accused were also members of an association declared unlawful by the Government of India. Subsequently, further searches and seizures were effected. After completion of investigation, a charge sheet was submitted. In 2012 charges were framed against the accused Chhatradhar Mahato, Sambhu Soren alias Lalu, Sagun Murmu, Suksanti Baskey, Raja Sarkhel and Prasun Chatterjee alias Bhutan under Sections 120B, 121, 121A, 122, 123, 124-A and 307 of the Penal Code, under Sections 18, 38(2), 39(2) and 40(2) of the UAPA, against the accused Suksanti Baskey under Sections 4(b) of the Explosive Substances Act, against the accused Sambhu Soren alias Lalu and Sagun Murmu under Section 3 of the Explosive Substances Act, against the accused Chhatradhar Mahato, Sambhu Soren alias Lalu, Sagun Murmu and Suksanti Baskey under Sections 16(1)(b), 17 and 20 of the UAPA and against the accused Chhatradhar Mahato under Section 4(b) of the Explosive Substances Act, Section 25(i)(a) of the Arms Act. Prior to the framing of charge, the accused Ranjit Murmu passed away.

3. During trial the prosecution examined thirty two witnesses to establish its case. From the trend of cross-examination and examination of the accused under Section 313 of the Code, it would be evident that the defence case was a complete denial of the prosecution case.

4. From a careful perusal of the evidence on record, it appears that PW 1, a Sub Inspector of Police, was the defacto complainant of the case. He fully supported the first information report lodged by him. He first apprehended three out of the four accused namely, Sagun Murmu, Sambhu Soren, Ranjit Murmu. Some articles were also seized. Then he went with Sagun Murmu to a place near Birkar village. There, the accused Chhatradhar Mahato was also nabbed, but the rest fled away. Two maoist gazettes/magazines of 2007 were seized from Chhatradhar Mahato. In his cross-examination, PW 1 admitted that there was no label affixed on the electric wire and there was no wire attached to the flash-gun allegedly seized from Sagun Murmu. The said flash-gun was kept with the CRPF personnel before seizure. All the witnesses to the seizure were police personnel. He further admitted that there was no warrant of arrest pending against Chhatradhar Mahato at that point. PW 2 was an Assistant Sub Inspector of Police who accompanied PW 1 in the raid. He substantially corroborated the version presented by PW 1. He heard a mine blast from a nearby date tree. Three accused were initially arrested. Sagun Murmu led to the capture of Chhatradhar Mahato while five or six other accused fled away. He was a seizure list witness for the magazines seized from Chhatradhar Mahato. In the cross, he stated that IRBn was actually a State force. According to him, the blast took place about

thirty/thirty five feet away. He admitted that there was no signature on the labels of the articles appended by him. There was no mention of the police station case number in the seizure list. According to him, it was not fully correct to say that the electric wire was recovered from Sagun Murmu. The seizure list did not state that the flash-gun was fixed to a wire. He did not send any message for more force. PW 3, a police constable, was a raiding party member. He substantially corroborated the evidence adduced by PW 1 and PW 2. However, he also stated at one place that nothing was recovered from Sagun Murmu. In the cross-examination, he stated that there were about 150 members in the raiding party. A portion of the seizure list was written in the police station. He admitted that after going to the police station, he put his signature at three or four places. He was not examined by the Investigating Officer. PW 4, a Block Development Officer, was a seizure list witness for the seizure of certain documents on 06.10.2009 in respect of the complaints of workers about extortions and threats given by the extremists in the area and their prayer for mass transfer. In this regard a group of twenty five to thirty people of the PSBJC met him at his office. Subsequently, the members of the PSBJC, the official staff of the BDO, Binpur-I and the SDO, Jhargram held a meeting in which the accused Chhatradhar Mahato was present. In his cross, he admitted that he could not produce any document in connection with the tripartite meeting. PWs 5, 6 and 7 were local witnesses who turned hostile. PW 8 was a seizure list witness for the articles seized from the accused Suksanti Baskey. He was not examined by the Investigating Agency. He admitted his signature on three papers. However, he

deposed that he did not know what articles were seized. In his cross, he stated that the seizure lists were already written and he signed on them later on. He did not even know about the contents of the document. He could not identify the explosives, etc. However, he was not declared hostile. PWs 9 and 10 were two other local witnesses who turned hostile. PW 11 was a Sub Inspector of Police. He proved the seizure for the documents like official communications, call records, compact discs, etc. An objection was raised on behalf of the defence on the production of the compact discs in view of the amendments to the Evidence Act. He admitted that a whitener was used in recording a mobile phone number on Exbt-12. PW 12 was a ballistic expert. There was no label affixed on the arms and ammunitions. His report (Exbt-16) mentioned that the firearm was working, but it could not be cocked and it could be fired only after several attempts. PW 13 was the Collector for the area. He was a seizure list witness for the mass petitions for transfer vis-a-vis' the demand of Rupees Three Lakhs by the PSBJC. In his cross-examination, he admitted that he did not know about the contents of the document. PW 14 was a local witness who identified Chhatradhar Mahato. He was a witness to the seizure of documents from Chhatradhar Mahato at his residence. However, he said that he was not taken to the house of Chhatradhar Mahato. In his cross, he admitted that his signature was taken at the police station. PW 15 was another hostile witness. PW 16 was a Scientific Officer in respect of the pictures and the video recordings contained in the compact discs. Relevant documents and his report were seized from him. In his cross-examination, PW 16 admitted that the contents might be fifteen to twenty days

old. He could not say whether such data was tampered with or not. PW 17 was a Chemical Examiner. According to him, the extracts of materials were examined and the tests were found positive for explosives. PWs 18, 19 and 20 were the other hostile witnesses. PW 21 was an Officer in the Forest Service. In 2008, some members of PSBJC came to collect subscriptions. He paid a sum upon being given threats. But, the money receipt got burnt in a subsequent explosion caused by the Committee in 2009. In the cross-examination, he admitted that no document was available in respect of such arson. PW 22 was the Police Officer who filled up the First Information Report. PW 23 was an Inspector of Police. He sent a message to the Forest Beat Office to produce the ones apprehended. Suksanti Baskey and Chhatradhar Mahato declined to give their specimen signatures. In the cross, he admitted that he did not send any notice personally to them. PW 24 was an Assistant Sub Inspector of Police. He went to arrest the accused Suksanti Baskey as per direction. Some money, gelatin sticks and detonators were seized from him. In his cross-examination, he admitted that the Investigation Officer did not examine him. He could not even identify the accused Suksanti Baskey. The place of seizure was not mentioned and labels were not prepared and affixed over the seized articles. He further admitted that it was true that gelatin sticks were often seized and kept at the police station. The police personnel effecting such seizure were not searched before the seizure and no local person was made a witness. PW 25 was a Deputy Superintendent of Police, CID. He arrested the accused Raja Sarkhel. Some articles were seized. In the cross-examination, he admitted that there was no mention of a GD entry in the

arrest memo and no labels were affixed on the seized articles. PW 26 was an Inspector-in-Charge and the first Investigating Officer. He deposed that there were sixteen other cases against the said Chhatradhar Mahato and his associates. After a secret information was received, the same was diarized. Two seizure lists were received after the raid. PW 27 was the Deputy Superintendent of Police, CID who was asked to arrest the accused Raja Sarkhel and Prasun Chatterjee. Some articles like mobile phone and leaflets were seized from Prasun Chatterjee. PW 28 was another Investigation Officer of the case. He recovered some documents from under the bed of the accused Chhatradhar Mahato. He could not identify the accused Sombhu Soren, Sagun Murmu or Suksanti Baskey. He handed over charge to the other Investigating Officer PW 32. In his cross-examination, PW 28 stated that some leaflets and other documents were recovered. But he admitted that no effort was made to get a handwriting expert compare and identify the writings in the diary. PW 29 was an Upa Pradhan of Dharampur Gram Panchayat. He deposed that the PSBJC used to forcibly collect money from people. He heard about a meeting in 2007. On 14.06.2009 eight villagers were abducted and they could not be traced out ever again. He was a seizure list witness for the bullets, etc. on 06.10.2009 (Exbt-30). In his cross, he admitted that no label was affixed on the articles in his presence. PW 30 was a local witness. He identified Chhatradhar Mahato, but he could not identify the other accused. His father was abducted by Maoists on 04.09.2009. Eight to ten others were also abducted. However, he stated that he signed on a paper as given by the police and was thereafter declared hostile. PW 31 was a local witness and

a cousin brother of the accused Chhatradhar Mahato. He could not identify the other accused. He admitted his signature on a seizure list of 30.09.2009 (Ext-17/3). But, he stated that he did not know why he signed it. However, he did admit that some documents were seized. In his cross, he stated that the police collected his signature at the police line. PW 32 was the last of the investigating officers. He took up investigation on 03.10.2009. Thereafter, the names of the other accused transpired. The statement of Suksanti Baskey led to the recovery of magazines and photographs. He collected the report of the BDO regarding the prayer for mass transfer. On 06.10.2009, pursuant to the statement of the accused Chhatradhar Mahato, he recovered arms, ammunitions and gelatin sticks from a nearby bush. He sent them for examination and received a report. Relevant sanctions to prosecute were received from the District Magistrate and the Home Secretary. He submitted charge sheet on 23.12.2009. Compact discs containing conversations were seized. He also seized a firearm and other documents on 06.10.2009. The material exhibit No. VI did not tally with the articles as mentioned in the FSL report. He did not prepare any sketch map for the spot where the blast took place. A hole in the fire arm was not noted in the case diary. No villagers were examined either at Dalilpur village or Birkar village. There was no note in the case diary about whether the statements recorded under Section 161 of the Code were also sent for obtaining sanctions for prosecution.

5. Mr. Sekhar Kumar Basu, learned senior counsel appearing on behalf of the appellants, submitted as follows. Although cognizance of the alleged offences

were taken on 25.03.2010, the compliance with the provisions of obtaining sanctions prior to cognizance, both under Section 196 of the Code and as well as under Section 45(2) of the UAPA, had to wait till a subsequent date i.e., 24.05.2010. Even the mode or manner of such compliance remained questionable. More particularly, it was not even clear whether the statements recorded during investigation or for that matter, the case diary was sent to the sanctioning authorities for perusal. Therefore, the entire prosecution was completely bad in law. Reliance was placed on the decisions in State of Karnataka and another vs. Pastor P. Raju: (2006) 3 SCC (Cri) 179, Ashadullah Biswas @ Asadullah vs. State of West Bengal: (2018) 1 AICLR 671 (Cal). The acts alleged, by any stretch of imagination, did not amount to waging of war. By arranging a public meeting or by allegedly collecting a few arms, no one can be said to have either conspired to waging a war or to hatch up a conspiracy to do so against any Government. Waging of war would clearly mean something much more than this. The gravity and the enormity as would constitute a waging of war were sadly lacking in the present case. On the issue of waging of war, reliance was placed on Ramanand vs. State of Bihar: AIR 1951 Pat 60 and The State (NCT of Delhi) vs. Navjot Sandhu @ Afsan Guru: 2005 SCC (Cri) 1715 and Mohd. Jamiludin Nasir Vs. State of West Bengal: (2014) 7 SCC 443. Moreover, the membership of an organization, if at all, did not impute a member with a same goals as those of the organization. On this reliance was placed on State of Kerela vs. Raneef: (2011) 1 SCC (Cri) 409. It is another thing that there was no material to prove that either the accused were members of PSBJC or the CPI (Maoist) or

there was any connection between the PSBJC and CPI (Maoist). As regards the seizure of video recordings and photographs as contained in the compact discs, the same were inadmissible in evidence due to non-compliance of Section 65-B of the Evidence Act. On this, reliance was placed on Harpal Singh @ Chhota vs State Of Punjab: (2017) 1 SCC 734. Furthermore, since the accused as present in electronic recording were identified by voice, the approach should have been more cautious. In any event, tape recorded conversation could be used only as corroborative evidence. On this, reliance was placed on Nilesh Dinkar Paradkar vs. State of Maharashtra: (2011) 2 C Cr LR (SC) 269. The seizures of arms and even documents like magazines could not be proved as either the independent witnesses to the seizure turned hostile or they did not fully support the factum of seizure. No independent witness could be examined from the villages Dalilpur and Birkar so as to support the prosecution case. Even the ballistic expert was tentative in his approach. He admitted that the revolver that was seized could not be cocked. For all these reasons, the prosecution failed to prove its case beyond reasonable doubt.

6. Mr. Kishore Datta, learned Advocate General, appearing on behalf of the State, submitted as follows. At the outset, the role of the public prosecutor in a criminal trial or appeal had to be appreciated. His job is not only to ensure that the conviction was sustained, but also to act as a Minister of Justice. On this, he relied on the decisions of Hon'ble Apex Court in Sidahrath Vashisht @ Manu Sharma vs State, (2011) 6 SCC 1 and Zahira Habibullah Sheikh & Anr vs State Of Gujarat & Ors (2004) 4 SCC 158. In the present case, quite like in other cases,

the State has to be fair to the Court. If there had been any violation of the provisions for granting sanction for prosecution, the defence ought to get the benefit of it. A plea of sanction could be taken up at any point of time. It was a substantive right of the accused. If there was any illegality in the procedure for granting sanction, one could not say that no prejudice was caused. In the instant case, the sanctioning authority ought to have been examined. The manner in which and the documents on which the sanctions were based should have been placed on record. Section 45 of the UAPA prescribed both a time limit and an independent review for the grant of sanction. Such conditions were not fully satisfied. The sanction was granted admittedly after the taking of cognizance. Section 465 of the Code would not apply as the defect in sanction was not just an irregularity, but a gross illegality. The PSBJC was inferred to be a part of CPI (Maoist). But there was no basis for coming to such conclusion. No idea was given as to when the PSBJC was formed. No list of members of PSBJC was seized. There was hardly anything to connect PSBJC with the banned CPI (Maoist-Leninist). There were glaring illegalities in the way the prosecution was conducted. Several witnesses turned hostile. Some witnesses who ought to have been declared hostile, were not declared to be so. The independent seizure witnesses did not fully support the seizure. The accused Suksanti Baskey alleged that he was coerced to sign. Although the accused Chhatradhar Mahato refused to give his specimen signature, yet a conclusion was arrived at that some relevant documents were signed by the said Chhatradhar Mahato. PW 28, the Investigating Officer, admitted that he did not pray for examination of

handwriting. The details of articles seized, as contained in the seizure list, did not match with the articles as sent back from the FSL. Legally admissible evidence was lacking in respect of the offences alleged under Sections 121 and 124A of the Penal Code. Even if the charges could be proved, the sentences imposed were too harsh. At one point the learned Public Prosecutor submitted, if it was held that the plea regarding sanction ought to have been taken up before framing of charges, even then the question of harshness of the sentences remained there to be answered. At the end, the State again reiterated its stand that the defect in obtaining sanction was fatal to the prosecution case.

7. We heard the submissions of the learned senior counsels appearing on behalf of the appellants and the State and perused the evidence and other materials on record in order to find out about the correctness and propriety of the impugned judgment and order of conviction and sentence.

The respondent/State itself questioned the conviction and sentence:

8. At the outset, it may be germane to mention that in this case the State itself chose to question the validity of the judgment and order of conviction and sentence. It is trite law that a public prosecutor cannot act as a persecutor. However, for this, one need not cite decisions to extol the virtues of the State that it has to be fair to the Court and that the victim as well as the accused are to be fairly and evenly handed out justice.

Sanctions for prosecution:

9. In the event a defect in sanction prejudices an accused, the prosecution case is not always washed away. Normally, the clock is set back and after obtaining a valid sanction, the prosecution can proceed further or afresh. Section 45 of the UAPA requires that a sanction must be obtained by the prosecution before cognizance can be taken of the alleged offences under the said Act. It also provides for an independent review. According to the appellants, none of these conditions were complied with. Moreover, even the Investigating Officer could not say whether the recommending authority was appointed under Section 45 of the UAPA. That apart, there was no note in the case diary about whether the statements of witnesses recorded under Section 161 of the Code were sent to the sanctioning authority. In the instant case, admittedly cognizance of the offence was taken by the Trial Court in March 2010, but the sanction for the prosecution for the offences under the UAPA was granted by the Hon'ble Governor in May 2010. The decisions relied upon on behalf of the appellants lay down the established principles of law. But, they do not help the cause of the appellants in any particular way and are quite distinguishable on facts. The two contentions of the defence were that the sanction was obtained a few days after the taking of cognizance and that the sanction was bad in law. On the first score, it may be germane to note that there are no magic words for taking cognizance. One is said to take cognizance of an offence when one decides to proceed to the next stage after considering the allegations regarding commission of offence. Here, not much happened between the alleged taking of cognizance by the Trial Court, which according to the defence was the relevant date, and the obtaining of sanction. In

such circumstance, one cannot possibly claim that prejudice was caused by such irregularity. Section 465 of the Code specifically provides that no finding, sentence or order passed by a Court shall be reversed or altered on account of any error, omission or irregularity in the sanction for prosecution unless in the opinion of the Court, a failure of justice is occasioned thereby. In Nanjappa Vs. State of Karnataka, (2015) 14 SCC 186, the Hon'ble Apex Court, inter alia, held as follows:

" The rational underlying the provision obviously is that if the trial has proceeded to conclusion and resulted in a finding or sentence, the same should not be lightly interfered with by the appellate or the revisional court simply because there was some omission, error or irregularity in the order sanctioning the prosecution under Section 19(1). Failure of justice is, what the appellate or revisional court would in such cases look for. And while examining whether any such failure had indeed taken place, the Court concerned would also keep in mind whether the objection touching the error, omission or irregularity in the sanction could or should have been raised at an earlier stage of the proceedings meaning thereby whether the same could or should have been raised at the trial stage instead of being urged in appeal or revision."

In the present case, the sanction orders (Ext. 33 and 34) were exhibited without any objection from the defence. The defence did not raise any objection to the purported defects in the sanction immediately after taking of cognizance or before or even at the time of framing of charge. They waited till the trial was over and only at a belated stage chose to raise this technical point about taking of

cognizance before sanction. Such points ought to have been taken up before charge so that prosecution could either explain or cure the defect, if any, if permissible in law. Besides, no prejudice seems to have been caused to the appellants regarding such apparent incongruities concerning the orders of sanction. On the question of purported defects, Section 45(2) of the UAPA provided for an independent review and not for a review by an independent authority. So, there was no scope of appointing an independent authority for such purpose. Thus, the sanctions cannot be faulted on this score. The Investigating Officer might or might not have known whether any recommending authority was appointed under Section 45 of the UAPA. The absence of any note in the case diary about whether the statements of witnesses recorded under Section 161 of the Code were sent to the sanctioning authority did not necessarily imply that the same were not sent. A sanction was duly granted under Section 196 of the Code and under Section 45 the UAPA after perusal of necessary records as would be evident from the orders themselves. In fact, in the sanction accorded in respect of the Arms Act and the Explosive Substances Act, it was clearly mentioned that the same was being given after going through the case diary. This should scotch any doubt about sending of the case diary. At any rate, the defence did not raise any objection when the orders granting sanctions were exhibited. Besides, quite surprisingly one important aspect has been totally overlooked by the parties herein. In the present case sanctions under Section 196 of the Code and under Section 45 of the UAPA were granted by the State Government through its Home Secretary (part of Exbt 33) on 23.12.2009, much

prior to the taking of cognizance by the Learned Magistrate on 04.01.2010 or subsequently by the Learned Trial Court on 25.03.2010. The defence cross-examined the witness on this, but never challenged the existence or validity of sanction as referred to herein. The State Government's subsequent sanction granted on 24.05.2009 seems to have been more in the nature of an additional safeguard. Thus, in the facts and circumstances of the present case, we do not think that the prosecution case suffered any detriment in respect of the sanctions granted.

Atmosphere of terror:

10. It has come out from the evidence adduced by several witnesses that there was an atmosphere of terror created by members and/or supporters of the PSBJC. They were allegedly indulging in destruction of properties, extortion, looting and abducting people and the like. PWs 4, 13 and 21 proved documents regarding prayer for a mass transfer made by employees at the office of the BDO for an earlier period and for forced subscriptions. The receipt for the forced subscription could not be produced as the same was destroyed in an arson committed by the members of Committee. There was also a reference to an earlier case of abduction of eight villagers from the locality by some miscreants of the Committee. Although the present accused/appellants could not be specifically connected with such prior acts, nonetheless, there was no doubt that an atmosphere of terror prevailed in the area where the PSBJC or its members or supporters exerted their influence.

Some accused were nearly caught in the act or soon thereafter:

11. Immediately after the bomblast, the raiding party apprehended three of the four accused who were trying to flee from the place of occurrence. They were the accused Sagun Murmu, Sambhu Soren and Ranjit Murmu. As shown by Sagun Murmu, the raiding party went to Birkar village soon thereafter and were able to nab the other accused Chhatradhar Mahato, who had allegedly given them a slip earlier.

Seizure of arms, ammunitions and other documents:

12. It is not unnatural or rather, it is more likely that a local witness to a seizure of articles pertaining to acts of terrorism and the like would turn hostile out of fear. On more mundane facts, in Ramappa Halappa Pujar & Ors. vs. State of Karnataka, (2009) 1 SCC (Cri) 250, the Hon'ble Apex Court held that when witnesses in a village turned hostile in numbers in a particular case, the same by itself would not negate the prosecution case and would on the other hand show that there was a ring of truth in the prosecution case. Whether that was the reason for turning hostile of some witnesses in the present case or not, there is no justification in doubting the police witnesses who had effected or witnessed such seizure. The seizure of a flash gun, an iron pipe, electric wire, etc. from the place of explosion on 26.09.2009 was supported by three witnesses. Although the seizure was from the possession of the accused Sagun Murmu, the other accused Sambhu Soren and Ranjit Murmu apprehended along with him also signed on the seizure list (Ext. 2). The witnesses PWs 2 and 3 as seizure list witnesses and PW 1 who effected the seizure, supported the same. When the appellant Chhatradhar Mahato was apprehended, some gazettes, magazines were seized

from him. Ext. 1 was similarly prepared by PW 1 and the seizure was witnessed by three persons out of whom PWs 2 and 3 came to depose. It also contained the signature of the accused. On 30.09.2009 some leaflets, etc. including leaflets of CPI (Maoist) were seized from the house of the appellant Chhatradhar Mahato. The appellant refused to sign on this seizure list (Ext. 17). The two local witnesses to the seizure PWs 14 and 31 (cousin of the said appellant) did not support the seizure and turned hostile although they admitted their signatures. On 30.09.2009, pursuant to a statement of the appellant Chhatradhar Mahato, an improvised firearm, ammunitions, two detonators and eleven compact discs were recovered that had been kept concealed under the soil near a thick bush at Narcha jungle. The seizure was effected by PW 32. The seizure list (Ext 30) contained the appellant's signature in it. Out of two seizure list witnesses, one was not examined. The other one being PW 29 supported the seizure. Some issues were raised as regards Ext 30. First, the allusion to an overwriting for the row "Name and residence of person whose house is searched from whom seized" is quite meaningless. Nobody would write "NIL" under this head. As regards the suggestion that the word "NIL" written originally under the row "Description of articles seized" was converted into "ONE Long barrel....", the same is also not acceptable. The gap between the probable original "I" and the subsequent "L" is too much to accept that originally the word "NIL" was inscribed under the said heading. Besides, a little below at item no. 5, capital letters were again used to denote "ONE" although the rest were written in small letters. In any event, all these fade into insignificance as PWs 29 and 32 clearly supported the seizure.

Although the recovery of these articles might not satisfy the rigors of Section 27 of the Evidence Act, Section 8 of the said Act would nonetheless apply. On 01.10.2009, vide two seizure lists (Exts. 8/1 and 9/1), some objectionable leaflets, receipts for forced subscriptions and thereafter, three gelatin sticks and two detonators were seized by PW 24 from the appellant Suksanti Baskey His signature was obtained. Although the seizure list witness PW 8 admitted his signature, he did not support the seizure of anything except a few papers. But, he was not declared hostile. However, the challenge was not complete as PW 24, who seized the articles, was not cross-examined on this. On 05.10.2009 some leaflets and papers were also seized from his house. On 05.10.2009 some papers, mobile phone, etc. were seized from the appellant Prasun Chatterjee vide Ext. 28. The appellant Raja Sarkhel was arrested and on 05.10.2009 some papers, mobile phone, etc. were seized from him vide Ext. 22. Not putting of labels on some articles are not necessarily fatal to the prosecution case, especially when trustworthy witnesses support such seizure. After the flash-gun and wire were seized and tested, the wire might not have remained attached to the gun. Although the revolver seized from the accused Sagun Murmu could not be cocked at the first instance and could be fired only after apply some effort, if does not at all prove that the weapon was not in working condition. However, one does wonder about why an accused would be carrying in 2010 political gazettes published in 2007. But, these were not the only things that were seized. The seizures of arms and ammunitions from Sagun Murmu and Suksanti Baskey and

at the instance of the accused Chhatradhar Mahato and their testing positive at the forensics are clinching pieces of evidence pointing towards their guilt.

Recovery of compact discs:

13. As regards the compact discs containing images and video recordings, since they were seized from a place as shown by the accused, no certification needs to be given by the prosecution in respect of Section 65B of the Evidence Act. On this, reliance is placed on the decision of the Hon'ble Supreme Court in Shafhi Mohammad vs. State of HP, (2018) 2 SCC 801. The recordings were played before the learned Trial Court without any objection from the defence. Even though the voices were not compared, according to the Learned Trial Judge, there was no difficulty in the recognizing of the accused present in the pictures and the videos. The clips and images were also played before us in the presence of Learned Counsels of both the sides, except for one compact disc, which could not be played. It may be noted here that the videos were not found to have been tampered with. On the other hand, the expert opined that the recordings might have been 15-20 days old although no scientific reason was cited for giving such opinion. Be that as it may, the pictures and videos per se, especially in the absence of voice matching, are not capable of imputing charges of sedition and waging of war against the appellants. Some of the clips are purportedly taken by news channels. The few offending clips either showing marching of armed maoist guerillas or explaining how to use an automatic rifle are incapable of directly connecting the appellants with the alleged events. However, the possession of

these clips on the compact discs could not be properly explained by the appellant Chhatradhar Mahato.

Whether the accused were members of a banned terrorist organization:

14. As per the Learned Senior Counsel appearing for the State, the PSBJC did not appear to be a formation or a front organization of the Communist Party of India (Maoist – Leninist) as provided in Sl. No. 24 of the schedule of terrorist organizations as appended to the UAPA while the evidence at best floated the name of one Communist Party of India (Maoist). During hearing of the appeal the State, in unison with the appellants, denied that there were enough materials to connect the appellants with any banned terrorist organization. After checking the First Schedule carefully, it was found that with effect from 22.06.2019 i.e., from before the date of occurrence, the Communist Party of India (Maoist) was added in the list at Serial No. 34. Although there are certain references to the said entity CPI (Maoist) at most places, none of the witnesses has adduced any convincing evidence to show that either the accused were active members of the CPI (M-L) or the CPI (Maoist) or that the PSBJC was a front organization or a formation of the CPI (M-L) or the CPI (Maoist). No document has been forthcoming either to act as a cogent link in this regard. In any other proceeding it may be proved that the PSBJC is in some way connected to a banned organization. But, in the present case there is no sufficient evidence or material to establish that the accused were the members of a banned terrorist organization or they were supporting their illegal activities or were raising funds for them. Therefore, the charges under

Sections 38(2), 39(2) and 40(2) of the UAPA cannot be sustained as against any of the accused/appellants.

"Terrorist Act" under the UAPA :

15. Section 15 of the UAPA defines a terrorist act as follows:-

> *"**Terrorist act**. – Whoever does any act with intent to threaten or likely to threaten then unity, integrity, security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country, -*
> *(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means or whatever nature to cause or likely to cause –*
> *(i) death of, or injuries to, any person or persons; or*
> *(ii) loss of, or damage to, or destruction of, property; or*
> *(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or*
> *(iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or*
> *(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death or any public functionary; or*
> *(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.*
> *Explanation.- For the purpose of this section, public functionary means the constitutional authorities and any other functionary notified in the Official Gazette by the Central Government as a public functionary.*

From a plain reading of the above provision, especially sub-sections (a) and (b), it would be clear that the acts of the appellants as alleged would attract a charge under Section 18 of the UAPA, which deals with conspiracy or attempt to commit or advocacy of or abetment of or advice to or incitement to commit a terrorist act or any act preparatory to the commission of such act. However,

evidence is found lacking in applying Section 20 of the UAPA, which delves in being a member of a terrorist gang or organization.

Waging of war, conspiracy and sedition:

16. Earlier, a waging of war would essentially require a large collection of individuals and standardized arms meant to unleash a sufficiently lethal attack on the State or its machineries. Then, the concepts of IED and remote controlled mechanism for affecting a bomb blast were not there. In the present context, waging of war would not necessarily require the assembly of that many individuals and that many standardized arms to give effect to a similar onslaught. In State (NCT of Delhi) vs. Navjot Sandhu alias Afsan Guru, 2005 SCC (Cri) 1715, the Hon'ble Apex Court, inter alia, held as follows:

".....The expression "waging war" should not be stretched too far to hold that all the acts of disrupting public order and peace irrespective of their magnitude and repercussions could be reckoned as acts of waging war against the Government. A balanced and realistic approach is called for in construing the expression "waging war" irrespective of how it was viewed in the long long past. An organized movement attended with violence and attacks against the public officials and armed forces while agitating for the repeal of an unpopular law or for preventing burdensome taxes were viewed as acts of treason in the form of levying war. We doubt whether such construction is in tune with the modern day perspectives and standards. Another aspect on which a clarification is called for is in regard to the observation made in the old decisions that "neither the number engaged, nor the force employed nor the species of weapons with which they may be armed" is

really material to prove the offence of levying/waging war. This was said by Lord President Hope in R.v. Hardie in 1820 and the same statement finds its echo in many other English cases and in the case of Maganlal Radhakishan v. Emperor (AIR at p. 185). But, in our view, these are not irrelevant factors. They will certainly help the Court in forming an idea whether the intention and design to wage war against the established Government exists or the offence falls short of it. For instance, the firepower or the devastating potential of the arms and explosives that may be carried by a group of persons – may be large or small, as in the present case, and the scale of violence that follows may at times become useful indicators of the nature and dimension of the action resorted to. These, coupled with the other factors, may give rise to an inference of waging war."

In the instant case, the giving effect to a low grade bomb blast to scare away police in order to have a meeting conducted and the subsequent acquittal of the accused under Section 307 of the Penal Code, do not bring the facts within the enormity of "waging of war" as contemplated under Section 121 of the Penal Code although these may amount to terrorist acts. However, these facts coupled with the recovery of gelatin sticks, flash gun from the accused Sagun Murmu and the subsequent seizure of arms and ammunitions including two detonators at the behest of the accused Chahatradhar Mahato do give a clear inkling of a conspiracy to wage a war against the State, collecting arms for such purpose and concealing their design to wage such war. Quite aptly, the Explanation to Section 121A of the Penal Code reads as follows:

"Explanation – To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof."

The recovery of leaflets and documents in respect of terrorist activities alone would have been a different issue. But, such recoveries, if read along with the recoveries of arms and ammunitions from the accused in question, clearly make out a case of sedition as envisaged in Section 124-A of the Penal Code. Conspiracy, as is well known, is not hatched to the hearing of persons who can act as witnesses. There is hardly an occasion where one can have a direct evidence on this. It is to be gathered from the attending circumstances. One need not necessarily prove that the perpetrators expressly agreed to do an illegal act. The agreement may be proved by necessary implication. On this, reliance may be placed on the decision in Mohamad Usman Mohammad Hussain Maniyar & Anr. vs. State of Maharashtra, AIR 1981 SC 1062. As regards the evidence regarding call records, whether they are found admissible in evidence or not, they do not appear to be clinching enough as against the appellants. However, the apprehension of some accused at or from near the place of occurrence, the recovery of arms and ammunitions from some of the accused and the seizure of similar objectionable literature from most of them give a clear indication of a sinister design to commit terrorist acts and indulge in seditious activities.

Roles of the appellants:

17. The appellant Sagun Murmu was apprehended immediately after the bomblast from near the place of occurrence and a flash gun, an iron pipe, electric wire, etc. were seized from him. Subsequently some other offending literature

were also seized from him. The accused Sambhu Soren and another were apprehended from near the place of occurrence along with the co-accused Sagun Murmu immediately after the occurrence. The appellant Chhatradhar Mahato purportedly fled away from near the place of occurrence and after the way was shown by the co-accused Sagun Murmu, the raiding party tracked him to Birkar village and apprehended him from there. Some offending literature were found from him there as also from his residence afterwards. More significantly, arms and ammunitions including two detonators were recovered from a jungle as produced by the appellant Chhatradhar Mahato. He had no explanation for possessing the compact discs containing some extremely objectionable clips. Some arms and ammunitions as also some offending literature and receipts for forced subscriptions were recovered from the appellant Suksanti Baskey. Some mobile phones, cash money and leaflets could be recovered from the appellants Raja Sorkhel and Prasun Chatterjee. Their images were purportedly present in the seized compact discs, but not in any of the extremely offensive clips as referred to earlier.

Defective investigation:

18. We cannot but express out deep anguish about the manner in which the investigation of such a serious case as the present one was conducted. The members of the other forces who were part of the raiding party were not examined in this case. Sufficient number of independent persons were not brought forward to witness seizures. The Investigating Agency ought to have pre-empted that in cases involving such serious offences, some witnesses, especially

the local ones were bound to turn hostile. Moreover, the Investigating Agency failed to come to terms with the changes brought about in law owing to scientific advancements. Had the investigation been more sincere and adept, the true expanse and the gravity of the crimes could have been unearthed. However, the defects in investigation did not strike at the root of bulk of the prosecution case as sufficient materials were otherwise available to outweigh the apparent defects in investigation.

Acquittal under the Explosive Substances Act:

19. We are not agreeable with the conclusion of the Trial Judge as regards acquittal of the accused Sagun Murmu under Section 3 of the Explosive Substances Act and the accused Suksanti Baskey and Chhatradhar Mahato under Section 4(b) of the said Act. According to us, the recovery of offending articles could be proved as against them. However, the State has not filed an appeal against such partial acquittal. Considering the belated stage and the length of custody already undergone by the said accused, we are not inclined to issue a suo motu Rule questioning such partial acquittal.

Sentencing:

20. It is true that a flea-bite sentence should not be awarded for a serious offence. At the same time, one has to take into consideration diverse factors in awarding a sentence. Not only is the gravity of the crime to be considered, the other factors like the range of sentence imposable and the minimum sentence fixed, if any, are also to be taken into account. The aggravating as well as the mitigating circumstances are to be carefully weighed. For instance, in the present

case, the aggravating factors are the seriousness of the crimes and the recovery of relatively sophisticated items like gelatin sticks and detonators. On the other hand, the mitigating factors are the acquittal of the accused under Section 307 of the Penal Code and the non-seizure of any huge cache' of arms or more sophisticated and lethal weapons like rocket launchers or RDX. Keeping all these factors in mind, an adequate sentence is to be imposed in this case.

Conclusion:

21. As had been mentioned earlier, the prosecution has not been able to prove the charges under Sections 20, 38(2), 39(2) and 40(2) of the UAPA against any of the accused and as such, they are exonerated of such charges. We also think that the presence of the purported images of the appellants Raja Sarkhel and Prasun Chatterjee in some compact discs, albeit not in the most objectionable clips, does not sufficiently connect them to the alleged offences. The same fails to bring them within the ambit of conspiracy in the facts of the present case. It will be very unsafe indeed to convict the appellants Raja Sarkhel and Prasun Chatterjee on the basis of recovery of offensive literature from them. As such, they are entitled to benefit of doubt and hence, are acquitted from all charges. In view of the apprehension of the appellants Sagun Murmu and Sambhu Soren along with another from near the place of occurrence immediately after the bomblast and the apprehension of the co-accused Chhatradhar Mahato soon thereafter after tracking from a nearby village, the seizure of arms and ammunitions from the accused Sagun Murmu, Suksanti Baskey and at the instance of the accused Chhatradhar Mahato coupled with the seizure of

offensive literature pertaining to sedition and terrorism and the absence of any explanation from the appellant Chhatradhar Mahato about the presence of at least two extremely offensive clips in the compact discs, although the concerned appellants being Sagun Murmu, Sambhu Soren, Suksanti Baskey and Chhatradhar Mahato are acquitted from the charge under Section 121 of the Penal Code, their convictions and sentences under Sections 121A, 122, 123 of the Penal Code and under Section 18 of the UAPA are upheld and confirmed. Their conviction under Section 124A of the Penal Code is also upheld. But, we do not think that a sentence of life imprisonment should be imposed on the appellants under this provision. The next maximum alternative sentence imposable is an imprisonment for three years. Accordingly, the sentence under Section 124A of the Penal Code is reduced to three years' rigorous imprisonment for each. Considering the evidence on record, the appellant Chhatradhar Mahato's conviction and sentence under Section 25(1) (b) of the Arms Act are corrected and modified to a conviction under Section 25 (1-B) (a) of the Arms Act and to a sentence of three years' rigorous imprisonment while the fine imposed shall remain the same.

22. With these observations, the appeals are disposed of. Accordingly, CRAN 1152 of 2018 also stands disposed of.

23. A copy of the judgment along with the Lower Court records shall be sent down to the learned Trial Court forthwith by a Special Messenger for information and necessary action.

24. Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J)

I agree

(Md. Mumtaz Khan, J)