

Form No. (M)34

FORM A

DISTRICT: NORTH 24 PARGANAS

IN THE FIRST COURT OF THE JUDICIAL MAGISTRATE AT BARRACKPORE



Present: Sri Rahul Bhattacharjee
Judicial Magistrate 1st Court
Barrackpore, North 24 Pgs.
JO Code: WB01436

GR CASE NO. – 1681/2009

CNR NO. – WBNP150024212009

DETAILS OF OFFENCE / CRIME & PS

Arising out of Titagarh PS case no. 158/2009
dated 27.04.2009 u/s 448/427/506/34 IPC

DATE OF JUDGMENT

Tuesday, August 26, 2025

COMPLAINANT State of West Bengal

REPRESENTED BY Reshmi Aich, Ld. Asst. Public Prosecutor

NAME(S) OF

ACCUSED Biplab Adhikary & 3 Ors.

REPRESENTED BY Sanjoy Das, Ld. Advocate

Form No. (M)35

FORM B

CASE HISTORY

Date of OFFENCE/ CRIME27.11.2007

Date of filing FIR27.04.2009

Date of filing CHARGESHEET30.10.2010

Date of FRAMING CHARGE05.06.2023

Date of commencement of EVIDENCE19.08.2025

Date on which Judgment is RESERVED-

Date of JUDGMENT26.08.2025

Date of SENTENCE-

Plea

DETAILS OF ACCUSED

Rank of Accused	Name of Accused	Date of Arrest /Surrender	Date of Release on Bail	Offences Charged With	Whether Convicted or Acquitted	Sentence Imposed	Period of Detention Undergone During Trial (For The Purpose Of S. 428 Crpc)
1	Biplab Adhikary	05.10.2010	05.10.2010	448/427/506/34 IPC	Acquitted	-	X
2	Biswanath Adhikary	05.10.2010	05.10.2010		Acquitted	-	X
3	Mukti Madhu	05.10.2010	05.10.2010		Acquitted	-	X
4	Kaberi Choudhury	05.10.2010	05.10.2010		Acquitted	-	X

Form No. (M)36

FORM C

LIST OF PROSECUTION / DEFENSE / COURT WITNESSES

A. PROSECUTION WITNESSES

Rank of witness	Name of the witness	Nature of evidence (eye witness / police / expert / medical / panch witness / other)
1	Maheswar Naskar	CSW4 / Recording Officer

B. DEFENSE WITNESSES

Rank of witness	Name of the witness	Nature of evidence (eye witness / police / expert / medical / panch witness / other)
X		

C. COURT WITNESSES

Rank of witness	Name of the witness	Nature of evidence (eye witness / police / expert / medical / panch witness / other)
X		

LIST OF PROSECUTION / DEFENSE / COURT EXHIBITS / MATERIAL OBJECTS

A. PROSECUTION EXHIBITS

Serial no.	Exhibit number	Description
1	P1/PW1	Formal FIR
2	P1/1/PW1	Endorsement on Written Complaint

B. DEFENSE EXHIBITS

Serial no.	Exhibit number	Description
X		

C. COURT EXHIBITS

Serial no.	Exhibit number	Description
X		

D. MATERIAL OBJECTS

Serial no.	Material object number	Description
X		

1. FACTS OF THE CASE IN BRIEF:

- 1.1 This is a case under section 448/427/506/34 of Indian Penal Code, 1860.
- 1.2 The fact of the prosecution case is that the de-facto complainant namely Sanjib Chakraborty filed a written complaint before the Titagarh Police Station alleging inter-alia that on 27.11.2007 the four accused namely Biplab Adhikary, Biswanath Adhikary, Mukti Madhu and Kaberi Choudhury entered into his dwelling house and ransacked the property causing material damage and threatened him with dire consequences in furtherance of common intention. Based on the aforesaid complaint police started Titagarh Police Station Case No. 158/2009 dated 27.04.2009.
- 1.3 After investigation police submitted charge sheet under section 448/427/506/34 of Indian Penal Code, 1860 and accordingly cognizance was taken against the four accused namely Biplab Adhikary, Biswanath Adhikary, Mukti Madhu and Kaberi Choudhury. Thereafter, the case was transferred to this Court for disposal.
- 1.4 Substance of accusation were read over and explained on 05.06.2023 under section 448/427/506/34 of the Indian Penal Code, 1860 against the four accused namely Biplab Adhikary, Biswanath Adhikary, Mukti Madhu and Kaberi Choudhury to which the accused pleaded not guilty by saying '*ami nirdosh*' in bangla.
- 1.5 Accordingly, the trial commenced.

2. EVIDENCE:

- 2.1 The purported victim CSW1 along with other chargesheet witnesses did not take the dock when summoned. Presence of only one witness could be secured. He proved drawing up of the formal FIR and his endorsement on the written complaint but he had no personal knowledge about the facts of the case. Considering the above evidence, the prosecution prayed for closure of evidence.
- 2.2 The Court was pleased to close the prosecution evidence on the prayer of the Ld. Asst. Public Prosecutor appearing for the State of West Bengal. Accordingly, the record was taken up for examination of the accused under section 313 of the Code of Criminal Procedure, 1973.
- 2.3 The four accused namely Biplab Adhikary, Biswanath Adhikary, Mukti Madhu and Kaberi Choudhury were examined under section 313 of the Code of Criminal Procedure, 1973. The accused claimed the prosecution case as false and fabricated and declined to provide any evidence on the part of the defense and accordingly, the argument was heard for both sides.
- 2.4 Thereafter, the case was taken up for passing judgment.

3. POINTS FOR CONSIDERATION:

- 3.1. Whether accused has/ve committed any offence u/s 448/427/506/34 IPC?
- 3.2. Whether the accused is/are liable to be convicted or acquitted?

4. DECISION WITH REASONS:

- 4.1. On cursory perusal of the relevant materials on record, it is seen that this case proceeds against the four accused namely Biplab Adhikary, Biswanath Adhikary, Mukti Madhu and Kaberi Choudhury on the accusation of having committed offences punishable under section 448/427/506/34 of the Indian Penal Code, 1860.
- 4.2. The only evidence in this record came from the recording officer who did not have any personal knowledge about the case. He merely drew up the formal FIR. In all, there is no material evidence that has come forth in this case. Considering the quality of evidence on record, the prosecution had prayed for closure of evidence.
- 4.3. In view of the above discussion, it transpires that the prosecution has failed in its duty to bring before the Court even one scrap of credible evidence which can connect the accused with the offence alleged and the date, time and place of occurrence. The evidence on record seems to negate the prosecution story into a baseless allegation which failed to see the light of the day when subjected to trial. The gamut of documents that make up the prosecution case accordingly turns into papers containing unfounded and unsubstantiated allegations.
- 4.4. It needs to be told at this juncture that the criminal jurisprudence in our country holds an accused innocent until proven guilty and also necessitates that the prosecution proves its allegations by actionable evidence beyond all reasonable doubt. The evidence on record has fallen grossly short of discharging the said burden. Unsubstantiated allegations would naturally fail in front of the constitutional right of the accused to be presumed innocent until proven guilty. The glaring inconsistencies between the evidence and the prosecution story results in failure of the prosecution case.
- 4.5. It also needs to be stated here that it is not only the victim who demands justice; prolonged incarceration on unfounded and unsubstantiated charges often leaves an accused as a victim of the system of dispensation of justice. In such circumstances, the call of justice would cry equally for the victim as well as the accused and in case the

allegations of commission of offence fails to be proved despite sufficient opportunity, require the accused to be set free.

4.6. In view of the above discussion, the prosecution having miserably failed to prove the commission of the alleged offence by the accused, this Court holds the accused “NOT GUILTY” of the above offence(s) which paves the path for acquittal of the accused.

Hence, it is

O R D E R E D

that, the four accused namely Biplab Adhikary, Biswanath Adhikary, Mukti Madhu and Kaberi Choudhury is/are **acquitted** from all offences in GR Case being no. 1681/2009 under Section 255(1) of the Code of Criminal Procedure, 1973 this day.

The victim/complainant be educated of the right to prefer an appeal against this order of acquittal and further, of the entitlement to free legal aid for the same. A copy of this order be urgently and invariably sent to (1) the District Magistrate, North 24 Parganas and (2) the Secretary, District Legal Services Authority, North 24 Parganas for information and necessary action.

Bail Bond(s) is/are discharged. Surety/ies (if any) is/are released.

Note in the relevant register(s).

Typed and Checked by me.

Rahul Bhattacharjee, WBJS
Judicial Magistrate 1st Court
Barrackpore, North 24 Pgs.
JO Code: WB01436
26.08.2025

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