

FORM A

IN THE COURT OF JUDICIAL MAGISTRATE, 3rd COURT, BISHNUPUR, BANKURA <u>Present: Ms. Aliviya Bhattacharya (J.O Code: WB01364)</u> <u>Judicial Magistrate, 3rd Court, Bishnupur, Bankura</u> <u>Date of Judgment: 02.07.2026</u> <u>GR 819/2015 (Reg. No. 10035/2017)</u> T R No. 2242/2017 WBBK06-001665-2017

Details of FIR/Crime and Police Station

Complainant	State of West Bengal
Represented by	Ld. APP, Suparna Koley
Accused	1. Sahadeb Ghosh 2. Rajib Ghosh 3. Ganesh Pan
Represented by	Ld. Adv. Joyjit Mondal

FORM B

Date of offence	23.09.2015
Date of FIR	24.09.2015
Date of Charge sheet	30.11.2015
Date of framing charge	08.06.2026
Date of commencement of Evidence	22.06.2026
Date on which judgment is reserved	02.07.2026
Date of the judgment	02.07.2026
Date of the sentencing order, if any	N.A

Accused Details

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for the purpose of Section 428 CrPC
1.	Sahadeb Ghosh	26.09.2015	29.09.2015	Section 341/448/323/324/326/354B/506/509/34 IPC	Acquitted	N.A	N.A

2.	Rajib Ghosh	N.A	29.10.2015	Section 341/448/323 /324/326/35 4B/506/509/ 34 IPC	Acquitted	N.A	N.A
3.	Ganesh Pan	N.A	08.01.2016	Section 341/448/323 /324/326/35 4B/506/509/ 34 IPC	Acquitted	N.A	N.A

FORM C

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W-1	Dipali Pal	Defacto Complainant
P.W-2	Suryakanta Pal	Son of the defacto complainant

B. Defense Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
D.W-1	N.A	N.A

C. Court witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
C.W-1	N.A	N.A

LIST OF PROSECUTION/ DEFENSE EXHIBITS/ COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit No.	Description
1.	N.A	N.A

B. Defense

Sr. No.	Exhibit No.	Description
1.	N.A	N.A

C. Court Exhibit

Sr. No.	Exhibit No.	Description
1.	N.A	N.A

D. Material Objects

Sr. No.	Material Object No.	Description
1.	N.A	N.A

JUDGMENT

Preface

1. The instant case is under **Section 341/448/323/324/326/354B/506/509/34 IPC** instituted on the basis of the F.I.R lodged by the de-facto complainant namely **Dipali Pal** before the O/C, Indas P.S, Bankura against the accused persons namely **Sahadeb Ghosh, Rajib Ghosh and Ganesh Pan.**

Fact of the case

2. The case of the prosecution, as structuralized by the de-facto complainant (Informant) in the written complaint, is that on 23.09.2015 at approximately 23:00 hours, the accused persons, namely Sahadeb Ghosh, son of Late Ajit Ghosh, Rajib Ghosh, son of Mritunjoy Ghosh, and Ganesh Pan, son of Ananda Pan, all residents of Village Damodarpur, P.S. Indas, District Bankura, forcibly entered the residential house of the complainant with a common criminal intention. Upon entering, the named accused persons criminally intimidated the complainant with dire consequences. When the complainant's husband raised an objection, the accused persons assaulted the complainant, her husband, and their son with lethal weapons, including lathis (bamboo sticks) and iron rods. During the course of the assault, the accused persons also committed acts intended to outrage the modesty of the de-facto complainant. As a direct result of the physical assault, the complainant sustained a fracture to her hand constituting grievous hurt, while her husband and son sustained multiple bodily injuries. Upon hearing the cries of the victims, local residents rushed to the spot and rescued them, whereupon the accused persons fled. Subsequently, the de-facto complainant lodged a formal complaint before the Officer-in-Charge of Indas Police Station, leading to the registration of the formal FIR and the inception of the instant trial.

Charge

3. Formal charges were framed against all the accused persons under Sections 341, 448, 323, 324, 326, 354B, 506, 509 read with Section 34 of the Indian Penal Code. The substance of the accusations was read over and explained to the accused persons in a language understood by them, to which they pleaded "Not Guilty" and claimed to be tried.

Examination of the accused under section 313 Cr.PC

4. Upon the conclusion of the prosecution evidence, all incriminating circumstances appearing in the evidence against the accused persons were explicitly put to them during their examination

under Section 313 of the Code of Criminal Procedure (Cr.P.C.). The accused persons denied all allegations, maintained a defense of absolute innocence, and claimed they were falsely implicated therein. Upon being explicitly asked, the accused persons declined to adduce any defense evidence or examine witnesses on their behalf.

Points for Consideration

5. For a just and proper adjudication of the instant case, the following points arise for consideration by this Court:

Point No. 1: Whether the prosecution has established beyond all reasonable doubt that the accused persons, in furtherance of their common intention, committed wrongful restraint and criminal house-trespass, thereby committing offences punishable under Sections 341/448/34 of the IPC?

Point No. 2: Whether the accused persons, in furtherance of their common intention, voluntarily caused simple hurt, hurt by dangerous weapons, and grievous hurt to the complainant, her husband, and her son, thereby committing offences punishable under Sections 323/324/326/34 of the IPC?

Point No. 3: Whether the accused persons, in furtherance of their common intention, assaulted or used criminal force against the de-facto complainant with the intent to disrobe her, and uttered words or made gestures intending to insult her modesty, thereby committing offences punishable under Sections 354B/509/34 of the IPC?

Point No. 4: Whether the accused persons criminally intimidated the complainant and her family with injury to their person, thereby committing an offence punishable under Section 506/34 of the IPC?

Point No. 5: Whether the prosecution has successfully discharged its burden to prove the guilt of the accused persons beyond the shadow of reasonable doubt, and whether they are liable to be convicted?

ARGUMENTS ON BEHALF OF THE ACCUSED PERSONS

6. The Ld. Advocate for the accused persons started the argument and stated that the de-facto complainant has deposed before this Court and during his examination in chief he did not reveal anything incriminating against the accused persons. No other witnesses examined by the prosecution adduced any incriminating evidence. Accordingly, he prays for the acquittal of the accused persons in this case.

ARGUMENTS ON BEHALF OF THE PROSECUTION

7. The Ld. APP argued on behalf of the prosecution stated that the de-facto complainant has filed this case against the accused persons under S. 341/448/323/324/326/354B/506/509/34 IPC, and has contested the same and thus prays that the accused should be punished as per law.

Decision with Reasons

9. This is a case under **S. 341/448/323/324/326/354B/506/509/34 IPC** filed by the de-facto complainant against the accused persons. Now, this Court is to analyze, assess and to take into account of the total evidence and materials on record to have a clear decision of the case.

10. This Court perused the materials on record. On perusal, it appears that the de-facto complainant alleged in written FIR that on 23.09.2015 at approximately 23:00 hours, the accused persons, namely Sahadeb Ghosh, son of Late Ajit Ghosh, Rajib Ghosh, son of Mritunjoy Ghosh, and Ganesh Pan, son of Ananda Pan, all residents of Village Damodarpur, P.S. Indas, District Bankura, forcibly entered the residential house of the complainant with a common criminal intention. Upon entering, the named accused persons criminally intimidated the complainant with dire consequences. When the complainant's husband raised an objection, the accused persons assaulted the complainant, her husband, and their son with lethal weapons, including lathis (bamboo sticks) and iron rods. During the course of the assault, the accused persons also

committed acts intended to outrage the modesty of the de-facto complainant. As a direct result of the physical assault, the complainant sustained a fracture to her hand constituting grievous hurt, while her husband and son sustained multiple bodily injuries. Upon hearing the cries of the victims, local residents rushed to the spot and rescued them, whereupon the accused persons fled. Subsequently, the de-facto complainant lodged a formal complaint before the Officer-in-Charge of Indas Police Station, leading to the registration of the formal FIR and the inception of the instant trial.

11. The **PW-1, Dipali Pal (the de-facto complainant/victim)**, deposed in her examination-in-chief that she had lodged the written complaint at Indas Police Station in the year 2015 against the accused persons, namely Ganesh Pan, Rajib Ghosh, and Sahadeb Ghosh. She further stated that her husband, Bijoy Pal, is now deceased. During her examination, she formally identified all the accused persons present in Court. She stated that there had been a hot altercation and a tussle with the accused persons arising out of a pre-existing family dispute. However, during her cross-examination, the witness completely turned around and failed to corroborate her own initial narrative. She stated that she could not recall the contents of the written complaint and had no recollection of the alleged incident. She categorically affirmed that she currently harbors no grievances against the accused persons and that they are now residing peacefully in the same locality. Furthermore, she disclosed a serious procedural anomaly, stating that the investigating police machinery had never interrogated or recorded her statement.

12. The **PW-2, Suryakanta Pal (son of the de-facto complainant)**, deposed that PW-1 is his mother and echoed that a complaint had been lodged at Indas Police Station in 2015 against the three named accused persons. He identified the accused persons in Court and stated that a heated altercation and tussle had occurred with them over a family dispute. Significantly, during his cross-examination, this witness also compromised the prosecution's stance by categorically stating that the police personnel had never interrogated him or recorded his statement during the course of the investigation.

13. On a conjoint and critical consideration of the entire evidence brought on record by the prosecution, it is conspicuously clear that none of the material witnesses have provided clear, direct, or unequivocal incriminating evidence against the accused persons. Hostile/Contradictory Nature of Star Witness, PW-1, who is both the victim and the star witness of the prosecution, has fundamentally destroyed the substratum of the prosecution's case by contradicting her primary assertions during her cross-examination. Her absolute lack of recollection regarding the incident and her admission of peaceful co-existence with the accused persons completely strips her ocular account of any credibility. The testimony of PW-2 remains entirely uncorroborated and stands discredited by the admissions of PW-1. Crucially, despite the primary allegations in the FIR concerning physical assault causing a fracture and multiple bodily injuries, no medical examination report or injury certificate has been admitted into evidence to substantiate the charge under Section 326/323/324 IPC. Furthermore, there is no evidence of any seizure of the offending weapons (lathis or iron rods) alleged to have been used during the occurrence.

16. At this juncture, it is relevant to invoke the statutory mandate of Section 101 of the Indian Evidence Act, 1872, which governs the burden of proof. The provision reads as under:

"Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proving those facts lies on that person."

In a criminal trial, the wheels of justice are set in motion by the prosecution, and the golden thread running through the administration of criminal justice is that the financial and legal onus lies squarely on the prosecution to prove the ingredients of the alleged offences beyond the shadow of a reasonable doubt. In the instant case, there is a total dearth of concrete, reliable, or substantial evidence on record to suggest that the alleged incident occurred in the manner structuralized by the prosecution. The oral testimonies of the material prosecution witnesses are structurally cryptic, fragmented, and contradictory. They completely fail to point to the guilt of the accused persons. Since the prosecution has failed to discharge its absolute statutory burden to establish the charges against the accused persons beyond all reasonable doubt, the benefit of the

doubt must inevitably be extended to the accused. All the points are thus answered in the negative. In the result prosecution case fails and the accused persons merit acquittal.

Hence, it is

ORDERED

That the accused persons namely **Sahadeb Ghosh, Rajib Ghosh and Ganesh Pan** are found not guilty of committing the offense punishable under **S. 341/448/323/324/326/354B/506/509/34 IPC** and they are hereby acquitted u/s 248(1) Cr.P.C in respect of offense alleged to be committed under **S. 341/448/323/324/326/354B/506/509/ 34 IPC**.

The accused persons are on Court bail.

They are hereby discharged forthwith from their bail bonds and set at liberty.

The concerned sureties also be discharged from their obligations.

The instant case is accordingly disposed of.

Bench Clerk II is directed to note in T.R.

Let a copy of this judgment be sent to the DM, Bankura and the Chairman, SDLSC, Bishnupur at once.

Let this judgment be uploaded in CIS portal at once.

Seized alam, if any be disposed of after the expiry of appeal period.

Dictated & Corrected by me.

Judicial Magistrate, 3rd Court
Bishnupur, Bankura

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Bishnupur, Bankura