

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, FIRST TRACK, 2ND COURT, ASANSOL, PASCHIM BARDHAMAN	
PRESENT: SRINITA DAS, ADDITIONAL SESSIONS JUDGE, FIRST TRACK, 2ND COURT, ASANSOL, PASCHIM BARDHAMAN (J.O. CODE-WB00975)	
CNR NO. WBBD15-000137-2025	
SESSIONS CASE No.24 of 2025 SESSIONS TRIAL No. 52 of 2025 (CIS No. S.C. No. 24 of 2025) (Arising out of G.R.Case No 1603 of 2023 in c/w Asansol (N) PS case No. 231 of 2023 dated 10.06.2023 under sections 376/417 of Indian Penal Code)	
DATE OF JUDGEMENT : 12.08.2026	
Complainant	State of West Bengal De facto : XXX
Represented by	Ld. PP
Accused Person	Istekar Alam @ Ishtekar Alam @ Pintu
Represented by	Ld. Advocate

FORM- A
(Details of FIR/Crime and Police Station)

Date of offence	For last long times.
Date of FIR	10.06.2023
Date of Charge sheet	15.07.2023
Date of Framing of Charge	19.06.2025
Date of commencement of Evidence	21.07.2025
Date on which Judgement is reserved	N.A.
Date of the Judgement	12.08.2026
Date of the Sentencing Order, if any	N.A.

FORM- B
(Details of the accused person/persons)

Rank the accused	Name of the accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentenced imposed	Detention Undergone during Trial (428 Cr. P.C.)
1	Istekar Alam @ Ishtekar Alam @ Pintu	Arrested on 11.06.2023	02.07.2023	Sec. 376/417 IPC	Acquitted	N.A.	No such detention made

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 and other witnesses)
PW 1	Victim Girl	De facto complainant
PW 2	Asma Khatun	Relative of victim
PW 3	Baby Khatun	Relative of victim
PW 4	Khusboo Parween	witness
PW 5	Suvajit Ray	Medical Officer
PW 6	Sajal Chowdhury	Investigating Officer

B. Defence Witnesses, if any : N.A.

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness and other witnesses)
DW 1	N.A.	N.A.

C. Court Witnesses, if any : N.A.

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness and other witnesses)
CW1	N.A.	N.A.

FORM- D
(List of Prosecution/Defence/Court Exhibits)

A. Prosecution Exhibits :

Sl. No.	Exhibit Number	Description
1	Exhibit-P/1	The statement before Magistrate
2	Exhibit-P/2	The signature of PW 1 on Written complaint
3	Exhibit-P/3	The signature of PW 1on formal FIR
4	Exhibit-P/3/1	The formal FIR
5	Exhibit P/4	sketch map with Index

D. Materials Objects Exhibits :

Sl. No.	Exhibit Number	Description
1	N.A.	N.A.

J U D G M E N T

- 1) Sole accused has been charged for committing offence punishable under sections 376/417 of the Indian Penal Code.
- 2) The prosecution case, in brief, is that the victim (name withheld) a resident of Beltab lodged a written complaint on 10.06.23 with O/C Asansol P.S alleging that she had developed a love affair with one Istekar Alam @ Ishtekar Alam @ Pintu since 2019 and on 07.05.24 at about 10.30. pm the accused came to the house of the complainant when she was alone. The victim on assurance of such false marriage had entered in physical relationship with him. Thereafter, the victim had asked the accused to marry her which he denied. The accused had failed to continue the relationship with the victim and had also denied to conform to the

assurance of marriage with the victim and so the victim had lodged the complaint with the local police station and as such the case was registered.

3) On the basis of the said written complaint Asansol (N) PS case No. 231 of 2023 dated 10.06.2023 under sections 376/417 of Indian Penal Code of the Indian Penal Code was started against the accused person.

4) The Investigating Officer concerned on completion of the investigation submitted charge-sheet vide No. 245/2023 dated 15.07.2023 against the accused for committing the offence punishable under sections 376/417 of the Indian Penal Code.

5) Upon giving an ear to the prosecution and defence and considering the case record and the documents submitted therewith, charge was framed by this Court against the above-named accused for the offence punishable under sections 376/417 of the Indian Penal Code. The charge was read over and explained to the accused, who pleaded not guilty and claimed to be tried.

6) In order to prove the charges against the accused, prosecution has examined six witnesses and documentary evidence brought before this court during the course of trial which were marked exhibits.

ORAL EVIDENCE

The prosecution brought forth three witnesses who are examined during the course of trial. They are as follows :-

- (i) Victim as PW-1.
- (ii) Astik Bouri as PW-2
- (III) Asma Khatun as PW- 3
- (IV) Baby Khatun as PW-4
- (v) Khusboo Parween as PW-5
- (VII) Suvajit Ray as PW- 5
- (VI) Sajal Chowdhury as PW-8

DOCUMENTARY EVIDENCE

The prosecution brought forth these documentary evidences during the course of trial which are as follows :-

- (i) Statement of the victim was marked as Exhibit-1.
- (ii) Written complaint was marked as Exhibit-2.
- (iii) Signature of PW 1 on formal FIR was marked as Exhibit-3.
- (iv) Formal FIR was marked as Exhibit-3/1.
- (V) Rough sketch map with index was marked as Exhibit-4.

7) After completion of the prosecution evidence, the accused was examined under section 313 of the Code of Criminal Procedure. The oral and documentary evidence were put to him in question form, who denied the allegations made against him. However, no oral or documentary evidence was produced by the accused in their defence.

8) Defence plea as it appears from the trend of cross-examination of prosecution witnesses and examination of the accused under section 313 of the Code of Criminal Procedure is one of complete innocence of the accused. The accused adjured to his guilt and pleaded that he has been falsely implicated in this case.

POINTS FOR DETERMINATION

9) The following points for determination arise in this case :-

- i) Whether the accused in the year 2019 before lodging the complaint by the victim intentionally induced her to do sexual act with her which she would not do if he were not so deceived causing her damage or harm and thus committed the offence punishable u/s 417 of Indian Penal Code;
- ii) Whether the accused committed rape upon the victim at her house several times and thus committed the offence punishable u/s 376 of Indian Penal Code;
- iii) Whether the prosecution is able to prove the charge against the accused beyond reasonable doubt.
- iii) Whether the accused person is liable to be convicted under section 376/417 of the Indian Penal Code.

DECISION WITH REASONS

- 10) The aforesaid points being related to each other are taken up collectively for discussion and adjudication.
- 11) For the purpose of better appreciation of the evidence on record, it would be befitting to bear in mind the contending arguments of prosecution and defence advocates.
- 12) Learned P P in-charge while arguing the case submitted that the prosecution has ingeniously submitted that the victim in the case has given her evidence and had specifically state about the offence caused by the accused as she alleged in her complaint and had further submitted that the victim had identified her signature on the statement recorded under section 164 CrPC . The evidence of prosecution witnesses support the case for the alleged offence and he prayed for passing necessary order.
- 13) Learned advocate for the accused argued that the victim who is the prime witness in the case did not utter any incriminating facts against the accused which she alleged in her written complaint. The alleged fact was also not corroborated by the other witnesses in the case. The written complaint which is the genesis of the case has not been proved by the victim herself. The Ld. Advocate for the accused lastly submitted that the prosecution has failed to prove its case against the accused for which the charge was framed against him and the accused is required to be acquitted from the case for want of evidence.
- 14) A summary of the evidence of the prosecution witnesses is given below.
- 15) PW-1 the victim(name withheld) during her examination-in-chief stated that she had filed a written complaint against **Istekar Alam @ Ishtekar Alam @ Pintu**. PW-1 had identified the accused present in court. The PW-1 had deposed that there was a altercation between them relating to water connection for which the accused assaulted her . During the course of cross-examination, it came out from the mouth of PW-1 that admitted that she does not know the content of the FIR and police asked her to sign the same and she did so.

The witness had identified her signature on the statement recorded under section 164 CrPC .

16) The prosecution had brought forth another close relatives of the victim, who was examined as PW 2. The PW-2 Asma Khatun during her examination-in-chief has stated that the victim had love affair with a neighbour but she does not know his name. She further stated that there was an altercation took place between and dispute between the victim and accused.

17) The prosecution had examined another witnesses as PW 3 and PW 4 . The PW-3 namely Baby Khatun and PW 4 namely Khusboo Parveen during their examination-in-chief stated that they do not know the dispute between victim and accused.

18) The prosecution had examined another witness as PW 5 . The PW-5 namely doctor Suvajit Roy during his examination-in-chief stated that On 13.06.23, he conducted the medico legal examination of accused Istekar Alam @ Ishtekar Alam @ Pintu, 32 years, male in connection with Asansol (N) PS case no. 231 of 23 dated 10.06.23.

On physical examination the doctor was of the opinion that there is nothing to suggest that male is not capable of performing sexual intercourse. During examination no injury, deformity, or disease were detected anywhere on the external genital region. No injury was detected anywhere else on the body. No foreign body was detected anywhere on the body including genital. During cross-examination he stated that he have made the statement in a negative form.

19) The prosecution had examined another witness as PW6 . The PW-6 namely Sajal Chowdhury, Investigation Officer during his examination-in-chief stated that he was endorsed with the investigation by the then OC Asansol (N) PS. After being endorsed with the investigation, he had perused the FIR, visited the PO, prepared the rough sketch map and index, examined available witnesses and recorded their statements, and arrested one accused person. He had produced the accused before the court. He had arrested the accused and had prayed for police remand and

after getting the custody of the accused, he had prayed for conducting medico legal examination of the victim and the potency test of the accused and sent the same to FSL. He further stated that after conclusion of the investigation, he had submitted charge sheet against one accused person under sections 376/417 of IPC as sufficient materials was collected by him against this accused person during the course of investigation

The prosecution had brought forth few of the documentary evidence during the course of trial which I had already mentioned .

20) After having laid the evidence placed on record , it is necessary to scan the same so to ascertain as to whether the prosecution has been able to prove the guilt of the accused person.

21) At the outset, it is pertinent to mention herein that in the instant case the allegations in the FIR disclosed commission of offence punishable under sections 376 of the Indian Penal Code. An offence of rape, if established in terms of sections 375 of the Indian Penal Code, is punishable under sections 376 of the Indian Penal Code. In the present case, the second description of sections 376 is relevant which is set out below:

“376. Punishment for rape. – (1). Whoever, except in the cases provided for in sub- section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

2. Whoever, -

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(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,—

(a) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) “police officer” shall have the same meaning as assigned to the expression “police” under the [Police Act 1861](#) (5 of 1861);

(d) “women's or children's institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.”

22) The victim had filed the written complaint stating that in the year 2019 the accused frequently came to his house at Beltaba and in absence of her family members the accused raped her and the accused gave assurance of marriage to her. The victim on such assurance had entered into a physical relationship on several occasion with him but subsequently the accused denied to comply with such assurance for which she had filed a complaint. The victim when examined as PW-1 had stated that the accused her neighbours and there was a dispute between them relating to water connection and an altercation took place. During altercation the accused assaulted her.

The PW-2, close relative of the victim deposed that the incident took place few years ago but she does not remember the date. Her daughter had a love affairs with a neighbour but she forgot his name. There was an altercation took place between them

The prosecution brought another independent witness they did not say anything about the incident.

It appears to the court that the victim was brought before Ld. Magistrate during the course of investigation and her statement was recorded by the Ld. Magistrate. The victim was sent for medical

examination. The report of the doctor was brought before this court as documentary evidence. On perusal of the entire materials placed on the record, I find that the narration from the mouth of the victim with regard to the case comes on three occasions. One is when she was lodged the complaint before the PS, second time she narrated the incident before the Ld. Magistrate when she was brought forth by the IO during the course of his investigation. The third time when she narrated the incident vividly when she faced the dock at the time of trial. So, we get the version of the victim three times. The victim had also stated the incident before the IO during the course of investigation. If we conjointly peruse the evidence of PW-1 in the light of written complaint, we will find that the victim had tried to state that she had been in a physical relationship with the accused for the last several years and was under an assurance of marriage but from evidence of PW 1, she did not state anything about the sexual assault or they entered into physical relationship with an assurance of marriage at her house in absence of her family members. She stated different story that there was an altercation between them relating to water connection.

The victim also admitted in her cross examination that she stated that she does not remember the contents of the FIR. The victim admitted in her mouth that police had asked her to sign the same and so she signed it as per instruction of police.

The evidence of independent witnesses all are hearsay evidence and carries no value

On going through the evidence of the medical officer (P.W.5) I find that the male is not capable of performing sexual intercourse. During examination no injury, deformity, or disease were detected anywhere on the external genital region and no injury was detected anywhere else on the body. No foreign body was detected anywhere on the body including genital. Thus, allegation of rape is not at all proved.

23) In the eyes of the law, an act cannot be both truly consensual and legally constitute rape. However, a relationship that initially appears consensual can be legally classified as rape if consent was obtained

through deceit, coercion, or if the individual lacked the legal capacity to consent.

24) Here in the instant case, I find that the victim had tried to assert that she had entered in a relationship with the accused person for a pretty long time on a false assurance. It is surprising for this court to consider that a woman of considerable age enters in a love affair with another person who has already attained majority is presumed to consider the consequence his or her act. It is unbelievable to consider that the victim is unaware of the consequence of her action. Secondly, I am of the opinion that if the statement of the victim is considered to be sacrosanct that the victim had been with the accused person in several occasions spending time together then how could there be no rebellion from the part of the victim either to stop the accused person from the physical relation or to force him in fulfilling his assurance of marriage by filing a complaint before any forum or by taking any action in accordance to law. The physical relationship between the accused and the victim was consensual from the very beginning and cannot be said to be against the will or without the consent of the prosecutrix. Even if the case of the prosecutrix is accepted, there is no material on record to show that there was any dishonest inducement, or incitement on part of the accused. I find that the victim has failed to take any assertive steps in this regard. The victim had failed to state any reason as to what led her come before this court at this stage. The victim had failed to give any satisfactory explanation at any point of time i.e. since lodging of the FIR till her deposition recorded during the trial as to what prompted her to wait for a long period of three years to come before the court for redressal. It is quite probable that if a woman is subjected to sexual assault for a considerable period of time, she ought to have taken assertive steps against the accused but in the instant case this victim had not even taken any recourse of law nor had stated about the alleged incident to her close associates/relatives. The prosecution brought forth the independent witness who had only stated that there had been a physical relationship between the accused person and the victim but the marriage was denied and so the dispute had cropped between them which led the PW-1 file the instant case. It is

difficult to accept that the victim had remained under such assurance of marriage so long without even informing the local instrumentality of the State. The victim when examined as a prosecution witness at the time of the trial, it appears that the victim had not stated anything as regards the sexual assault alleged to have taken place on her by the accused . The version of the victim with regard to the forceful sexual assault or sexual assault on pretext of marriage is hardly believable by this Court.

25) It is pertinent to mention herein that the prosecution had failed to bring forth any other independent witnesses or relatives of the victim for reasons best known to them. It further transpires from the evidence placed on record that the prosecution had not examined any of the independent witnesses who could have stated about the alleged incidence. The evidence of the prosecution would show that the Pw has not stated about the date of the alleged incidence as stated in the FIR. The evidence adduced by the prosecution would definitely go on to show that the prosecution witness no. 1 when examined as the witness has stated the incidence of the case. However though the witness was examined by the prosecution, it appears to this court that there had been contradictions with regard to the evidence of the PW1 with the FIR. There is no corroboration of the ocular testimony of the PW1. Further , if we peruse the evidence of the PWs, we will find that the prosecution had brought forth the incidence but had specifically deposed that there had been a dispute with the accused person and the defacto complainant and as such the complainant had filed the instant case. The evidence of the prosecution would show that there had not been any direct witness to the incidence . All the witnesses are post facto one save and except the victim and they had not deposed to have seen the incidence in their own eyes. The rest of the prosecution witnesses could not state anything substantial with regard to the offence alleged . It is pertinent to mention herein that the prosecution witnesses could not bring forth any witnesses before this court by which the alleged incidence connects it to the offender .

26) Further it is pertinent to mention herein that the PW 1 when examined during the course of trial had deposed about the incidence in a vague manner . She had not stated the dates of the incidence during her examination in chief . If we peruse the evidence along with the contention of the victim as is apparent from the statement as well as the FIR , we will find that the allegations against the accused person is not well founded and is not proved .

27) However, it is not out of place to mention herein that the prosecution witnesses could not corroborate the incidence as mentioned in the FIR. There is lack of corroboration in the instant case so as to warrant the conviction of the accused person.

28) The materials on record both oral and documents, which have been discussed above will not inspire the confidence of this Court so as to come to the conclusion that accused committed the offences for which the charge have been framed against him. The prosecution has not established its case beyond all reasonable doubt. The accused therefore must be acquitted for lack of evidence.

29) Hence,

O R D E R E D

that accused Istekar Alam @ Ishtekar Alam @ Pintu is found not guilty of the offence under section 376/417 of the Indian Penal code and he be acquitted as per the provision of Section 235(1) of the Code of Criminal Procedure.

Accused is directed to furnish fresh bail bond as per law.

The seized alamats, if any, be disposed of in accordance with law after the period of appeal is over.

Regarding acquittal of accused, the victim has a right to prefer an appeal under proviso to section 372 of the Code of Criminal Procedure and, if necessary, she may avail free legal aid.

Copy of judgment be forwarded to the Sub-Divisional Legal Services Authority at Asansol and the District Magistrate, Paschim Bardhaman.

The soft copy of the judgment be uploaded in the CIS at once .

Dictated & Corrected by me :

ASJ, FTC, 2nd Court, Asansol,
Paschim Bardhaman

(Srinita Das)
Additional Sessions Judge,
Fast Track, 2nd Court, Asansol,
Paschim Bardhaman
(J.O. Code-WB00975)