

In the Court of Chief Judicial Magistrate, North 24 Parganas at Barasat Present: Ms.Ananya Dasgupta, [J.O Code: WB01505] [On this 19th day of September, 2023] [G.R. Case No. 1182 of 2020] T.R. No. 1309 of 2022 CNR NO. WBNP02006373-2022 [CIS Registration No. 4092 of 2022] (Arising out of Duttapukur P.S. Case No. 227 of 2020 dated 21.03.2020 under sections 341/323/325/34 of I.P.C.)	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	LD. APP
ACCUSED	SK. MUJIBAR REHMAN (A1) SK. NAJIM ALI (A2)
REPRESENTED BY	GAUTAM KR. SARKAR

Form B [directed by the Hon’ble Supreme Court in SUO MOTO WRIT (CRL) NO. (S) 1/2017; IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS V. THE STATE OF ANDHRA PRADESH & ORS.]

Date of Offence	21-03-2020
Date of FIR	21-03-2020
Date of Charge-sheet	27-06-2020
Date of Framing of Charges	29-08-2023
Date of commencement of evidence	08-09-2023
Date on which judgment is reserved	19-09-2023
Date of the Judgment	19-09-2023
Date of the Sentencing Order, if any	ACCUSED PERSONS HAVE BEEN ACQUITTED

J U D G M E N T

Facts of the case:

The case for the prosecution is that on 21.03.2020 at about 13:00 hrs the accused persons who are complainant’s relatives assaulted the complainant and his father with bamboo sticks and also threatened them. This was due to a land dispute. Consequently, the complainant and his father had to seek treatment at Barasat Dist. Hospital.

Thus the complainant filed a written complaint, and accordingly, Duttapukur P.S. Case 227/20 dt.21.03.2020 was started against the accused persons Sk. Mujibar Rehman and Sk. Najim Ali.

On lodgement of the FIR; investigation followed, and on completion of investigation, charge sheet being number 406 of 2020 dated 27.06.2020 was submitted in this case. The investigating officer after completion of his investigation found prima facie materials against the accused persons and indicted the accused persons by submitting the charge sheet for committing offence punishable under sections 341/323/506/34 of the Indian Penal Code 1860. After submission of charge sheet; as a progressing action cognizance of the offence was taken against the accused person for allegedly committing the aforementioned offences and the case was transferred to this court for trial.

Subsequently after considering the materials available on record, accusation under sections 341/323/506/34 of the Indian Penal Code 1860 was read over and explained to the accused persons on 29.08.2023, to which the accused persons pleaded to be not guilty of committing those offences and they claimed to be tried by this court. As the offences charged with, was triable by this court and was within the jurisdictional domain of this court, the trial of this case was initiated by recording the evidences of the prosecution.

Evidence adduced

The prosecution has adduced 02 witnesses among the witnesses arrayed in the charge sheet. The witnesses examined by the prosecution are as under:

Serial Number	Name of Witness	Nature of Witness
P.W-01	Abdul Rouf	De facto Complainant
P.W.-02	Sk. Ajibar Rehman	Witness

The witness has been cross-examined by the learned advocate for the accused person. The investigating officer of this case has not been examined in this case though efforts were taken to secure his presence. However, prosecution has adduced evidence in documentary form. The signature of the defacto complainant on the complaint, was marked as Exhibit PW1/P1.

Considering the pendency of this case, the quality of evidence of PW1 and PW2 as well as the right to speedy trial of the accused person, the evidence for prosecution was closed on 08.09.2023. Hence the case was fixed for examination of the accused persons under section 313 of the Code of Criminal Procedure, 1973. On the date so fixed the accused persons were examined under section 313 of Criminal Procedure Code 1973. During examination the accused person abjured their guilt and claimed to be not guilty and submitted that they will not lead any defence witness. In short, the sum and substance of the defence is plea of innocence.

Points for Consideration

After exhausting the above procedures the case was posted for hearing of arguments. On completion of arguments as per requirement of sections of the Cr.P.C it is the incumbent duty of this court formulate the points for determination being:

- 1) Whether prosecution has been able to prove his case?
- 2) Is the accused person guilty of the offence punishable under sections 341/323/506/34 of the Indian Penal Code?

Decision with reason

For the brevity of discussion both the points are taken up together for discussion.

The case has been instituted on the allegation of the de facto complainant that the accused persons assaulted the complainant and outraged his daughter's modesty. During examination, PW1 deposed that there was some misunderstanding between himself and the accused and that he does not remember the contents of the complaint he filed. During his cross-examination he stated that he has no allegations against the accused. PW2 deposed similarly that no incident took place on that day. Thus, the evidence on record against the accused is nil to prove a case against the accused persons.

In the light of the above discussion, in my considered opinion, the prosecution has failed to establish the commission of alleged offence by the accused beyond reasonable doubt.

Hence, it is **O R D E R E D**;

that the accused persons, namely **Sk. Mujibar Rehman and Sk. Najim Ali** found to be not guilty of committing the offence under sections 341/323/506/34 of the Indian Penal Code 1860, and he is hereby acquitted of the charge framed against them as per section 255 sub-section (1) of Criminal Procedure Code 1973. They also discharged from the liability of their respective bail-bonds and set at liberty. The sureties are also discharged. There has been no seizure in this case and hence no order to that effect is required to be passed. Inform the Court Inspector. The case record be consigned to the DRR following the modalities of law.

Typed by me;

Sd/-

Judicial Magistrate, 2nd Court
North 24 Parganas at Barasat

Sd/-

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