

Form No.(M)34**In The Court of Additional Chief Judicial Magistrate
Mekhliganj, Coochbehar.**

Present: Shri. Sanjib Roy (**J.O. Code: WB01066**)
Additional Chief Judicial Magistrate
Mekhliganj, Coochbehar.

Date of Judgement:- 21st day of February, 2025

GR – 859/2022

Reg. No.859/2022

CNR No. WBCB0H-000634-2022

(Details of FIR/Crime and Police Station)

Complainant	State of West Bengal De facto complainant- Laiji Khatun, W/o. Sarif Islam, resident of 133 Panishala, Dewniabari, PS. Mekhliganj, Dist.Coochbehar
Represented by	Sri. Dinonath Mohanta, Ld. A.P.P.
Accused	1) Mamun Ali @ Md. Mamunali, S/o.Md. Ali @ Md. Hosen, 2) Beuti Begam @ Beauty Parvin, W/o. Mamun Ali, 3) Nurnehar Begam @ Nurnehar Bibi, W/o. Md. Ali @ Md. Hosen, All of residing at 133 Panishala, PS. Mekhliganj, Dist.Coochbehar
Represented by	Sri. Pradip Biswas.....Ld. Advocate.

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Date of Offence	01.12.2022
Date of FIR	06.12.2022 vide Mekhliganj P.S. case No.403/2022 u/s.447/323/325/354/506/34, I.P.C.

Date of Charge sheet	15.03.2023 vide. No.42/2023 u/s. 447/323/325/354/506/34, IPC.
Date of recording Charge	06.10.2023 for the offence punishable u/s.447/323/325/354/506/34 of I.P.C.
Date of commencement of Evidence	16.05.2024
Date on which Judgement is reserved	N.A.
Date of Judgement	21.02.2025
Date of the Sentencing Order, if any	N.A.

Accused details:

Name of Accused	Date of arrest/ surrender	Date of release on Bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 428, Cr.P.C.
Mamun Ali @ Md. Mamunali	29-04-2023	29-04-2023	447/323/325/354/506/34 of the Indian Penal Code	Acquitted	N.A.	N.A.
Beuti Begam @ Beauty Parvin	03-01-2023	03-01-2023	447/323/325/354/506/34 of the Indian Penal Code	Acquitted	N.A	N.A
Nurnehar Begam @ Nurnehar Bibi	03-01-2023	03-01-2023	447/323/325/354/506/34 of the Indian Penal Code	Acquitted	N.A	N.A

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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	Laiji Khatun	De facto complainant (C.S.W-1)
P.W. 2	Najrul Islam	Victim (CSW-2)
P.W. 3	Chhabina Yasmin	Victim (Witness U/s.311 Cr.P.C.)

B. Defence witnesses if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	NIL	N.A.

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	NIL	N.A.

LIST OF PROSECUTION / DEFENSE / COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1.	P/1	Signature of P.W.1 on written complaint

B. Defence:

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

C. Court Exhibits:

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

D. Material Objects:

Sl. No.	Material Object Number	Description
	NIL	N.A.

JUDGEMENT

Fact of the prosecution case in nutshell is that on 01-12-2022 at about 2:30 p.m. complainant's Jatha-Sasur namely, Najrul Islam while working on his potato field, that time accused persons namely, Mamun Ali, Beauti Parvin and Nurnehar Begam abused him with filthy language and when he raised protest they attacked him with *shal battam* to intent to kill him. Due to assault caused by the accused persons said Najrul Islam sustained injury on his person and got his right hand broken into two pieces. On hearing hue and cry when wife of Najrul Islam, namely, Chhabina Yasmin came to save her husband, accused persons assaulted her physically and outraged her modesty and also threatened her with dire consequence. Thereafter local people came to the spot and saved them and took them to Changrabandha Primary Health Center.

Incident was reported to police by Laiji Khatun on the basis of which instant case was initiated against three FIR named accused persons namely, Mamun Ali @ Md. Mamunali, Beuti Begam @ Beauty Parvin and Nurnehar Begam @ Nurnehar Bibi.

After completion of investigation, charge sheet was submitted under section 447/323/325/354/506/34 of the Indian Penal Code against the FIR named accused. After taking cognizance by Ld. A.C.J.M., Mekhliganj and after serving copy, case was transferred to the A.C.J.M. Court, Mekhliganj for trial and disposal.

Charge was framed under section 240 of Cr.P.C. by the Court against the accused persons for the offence punishable under section 447/323/325/354/506/34 of the Indian Penal Code. Substance of

accusation was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. Hence, this trial.

After closing of prosecution evidence, accused persons were examined under section 313 of Cr.P.C. wherein accused claimed themselves as innocent and declined to adduce defence witness.

Points for Determination

Given my anxious consideration on the fact of prosecution case and the defence case as is appeared from the trend of cross-examination and examination of the accused persons u/s. 313 of Cr.P.C., following points for determination are made out:

1. Are the accused guilty of committing offence punishable u/s. 447/323/325/354/506/34 of the Indian Penal Code?
2. If found guilty, what will be the quantum of punishment?

Decision with Reasons

Learned A.P.P in his argument advanced that the prosecution has been able to produce both the victims to prove the case. Defacto complainant is also brought on record as a witness. Ld. A.P.P. has prayed to adjudge the case on the basis of evidence as yet adduced by the prosecution.

Ld. Defence Counsel argued that the prosecution has failed to bring the charge to home against the accused persons. Ld. Defence Counsel submitted before the Court that the accused persons who are near relatives of the complainant, are innocent and falsely implicated in the case due to boundary dispute, and they are liable to be acquitted.

Defacto Complainant who deposed as P.W.1 in her examination-in-chief admitted that she was not present at the time of alleged incident and that she has no allegation against the accused persons. From the prosecution case it is nowhere found that the complainant was at all present at the place of incident at that relevant time or she was a victim. It is further admitted by P.W.1 in her evidence that till she and her family members rushed to the place of occurrence, till then accused persons left

the place. So it is apparent that P.W.1 is not a ocular witness of the alleged incident.

Prosecution has brought two victims as P.W.2 and P.W.3. P.W.2 in his evidence only stated that one hot altercation took place between him and the accused persons over the issue of cutting *Aisle*. Though in his evidence P.W.2 stated that he fell on the ground because of pushing and shoving but in his cross-examination he has expressed his inability to say the mode and means of his falling down. In his cross-examination he further admitted that he has no allegation against the persons as the dispute has been amicably settled.

P.W.3 i.e. another victim in her evidence admitted that till she reached to the place of occurrence accused persons had left the place and that her husband i.e. P.W.2 was lying on the ground. It is further admitted by her that nothing had happened to her. In her cross-examination P.W.3 admitted that she did not witness the alleged incident. It is further admitted that even her husband did not tell her the cause of his falling. This kind of admission by P.W.3 diminishes the credibility of the witness.

None of the prosecution witnesses are found to be fertile. The evidence on record is flimsy and ambiguous and on the basis of which no affirmative conclusion can be drawn against the accused persons.

Upon considering evidence on record, I have no hesitation to hold that the Prosecution has miserably failed to proved the case against the accused persons, thereby has failed to bring home the charge against the accused persons.

Accordingly, accused persons are found not guilty and are liable to be acquitted.

Hence, it is

ORDERED

that the accused persons, namely, Mamun Ali @ Md. Mamunali, Beuti Begam @ Beauty Parvin and Nurnehar Begam @ Nurnehar Bibi are found not guilty for the offence punishable under section 447/323/325/354/506/34 of the Indian Penal Code and are hereby acquitted under section 248(1) of the Code of Criminal Procedure.

Sureties are discharged from their respective liabilities.

Accused be set at liberty.

In view of the solemn order of the Hon'ble High Court at Calcutta passed in CRA 266 of 2020 with CRAN 1 of 2020 copy of this judgement be sent to the District Magistrate and the Secretary, District Legal Services Authorities, Coochbehar for due intimation to the complainant regarding her right to prefer an appeal and if necessary, to avail free legal assistance through the Legal Services Authority concerned.

Dealing Assistant is directed to do the needful.

Dealing Assistant is further directed to make a note on the relevant registers and C.I.S.

Dictated & Corrected by me

Sd/-
Addl. Chief Judicial Magistrate,
Mekhliganj, Coochbehar

Sd/- (Sanjib Roy)
Addl. Chief Judicial Magistrate,
Mekhliganj, Coochbehar