

FORM-A

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, 2nd COURT, DINHATA, COOCH BEHAR PRESENT : SRI NIRNAYA TAMANG WB01096 A.C.J.M., 2nd COURT, DINHATA, COOCH BEHAR DATE OF JUDGMENT:-19.12.2024 GR CASE NO. (1) 440 of 2022 (Sahebganj P.S. Case No. 342 of 2022 dated 19.09.2022 under sections 341/323/325/326/307/354/506/34 of IPC.)	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Ld. A.P.P., Sangram Deb
ACCUSED	1. Nazrul Sekh @ Hanif Ali, S/O Akkaj Ali Shek, 2. Fulbar Sekh @ Fulbar Ali, S/O Akkaj Ali Sekh, 3. Fulu Bibi @ Phulanu Bibi, W/O Akkaj Ali Sekh and 4. Akakj Ali Sekh @ Akkaes Sekh, S/O Hakimuddin Sekh all of Vill-Chhat Natafela (Azimpara), P.S. Sahebganj, Dist-Cooch Behar.
REPRESENTED BY	Ld. Defense Counsel, Jannatul Naim

FORM-B

Date of offence	16.09.2022
Date of FIR	19.09.2022
Date of Charge-Sheet	30.10.2022
Date of Framing of Charges	13.07.2023
Date of commencement of Evidence	14.07.2023
Date on which Judgment is reserved	19.12.2024
Date of Judgment	19.12.2024
Date of the Sentencing Order, if any	N/A

Accused details:

<i>Rank of the accused</i>	<i>Name of Accused</i>	<i>Date of arrest</i>	<i>Date of release on Bail</i>	<i>Offences charged with</i>	<i>Whether acquitted or convicted</i>	<i>Sentence imposed</i>	<i>Period of Detention Undergone during Trial for purpose of Section 428 of Cr.P.C</i>
1.	Nazrul Sekh @ Hanif Ali	Surrendered on 30.09.2022	Released on bail on 30.09.2022	U/S 341/323 /325/354/506/34 of IPC	Acquitted	NIL	N/A
2.	Fulbar Sekh @ Fulbar Ali						
3.	Fulu Bibi @ Phulanu Bibi						
4.	Akakj Ali Sekh @ Akkaes Sekh						

FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

<i>RANK</i>	<i>NAME</i>	<i>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</i>
<i>PW-1</i>	<i>Lovely Bibi</i>	<i>Defacto complainant.</i>
<i>PW-2</i>	<i>Hossain Ali</i>	<i>Husband/Victim</i>
<i>PW-3</i>	<i>Hachen Sekh</i>	<i>Brother-in-law of the defacto complainant.</i>
<i>PW-4</i>	<i>Hachna Bibi</i>	<i>Mother-in-law of the defacto complainant.</i>
<i>PW-5</i>	<i>Dilbar Sekh</i>	<i>Victim/Father-in-law of the defacto complainant.</i>
<i>PW-6</i>	<i>Arfan Sekh</i>	<i>Independent witness</i>
<i>PW-7</i>	<i>Achyruddin Sekh</i>	<i>Independent witness</i>
<i>PW-8</i>	<i>Majar Sekh</i>	<i>Independent witness</i>
<i>PW-9</i>	<i>Anjura Bibi</i>	<i>Independent witness</i>
<i>PW-10</i>	<i>Mamata Banu</i>	<i>Jha of the defacto complainant.</i>

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS:

A. Prosecution Exhibits:

Sl. No.	Exhibit Number	Description
1.	Exhibit-1	Signature of the defacto complainant over the written complaint.

B. Defence Exhibits:

Sl. No.	Exhibit Number	Description

C. Court Exhibits:

Sl. No.	Exhibit Number	Description

D. Material Objects:

Sl. No.	Exhibit Number	Description

J U D G M E N T

FACTS OF THE CASE

1. The case of the Prosecution in brief is that on 19.09.2022 one Lovely Bibi came to Sahebganj P.S and submitted a written complaint to the effect that on 16.09.2022 at about 6.00 P.M., the accused persons abused the defacto complainant and her family members over the issue of previous grudge and when the brother-in-law of the defacto complainant raised objection, at that time, the accused persons assaulted him with iron rod, wooden stick. On seeing this, the husband of the defacto complainant went to rescue him at that time the accused persons also assaulted him with iron rod, and wooden stick with an intention to kill him. It is the further case that on raising hue and cry, the complainant and her mother-in-law and father-in-law Dilbar Sekh went to rescue them but the accused persons also assaulted them as well and outraged the modesty of the defacto complainant. On further raising hue and cry, the accused persons fled away from the spot after threatening them with dire consequences. It is the further case that due to physical assault, the brother-in-law of the complainant sustained injury on their persons and that the complaint's husband was shifted to Cooch Behar MJN Medical Hospital wherefrom he was referred to T. Paul Nursing Home and complainant's mother-in-law was shifted to Dewanhat Hospital for her treatment. That her bhasur was also locally treated and that her father-in-law was also treated and hence the case.

PREPARATION FOR TRIAL:

2. The Investigating Officer after completion of investigation submitted a charge-sheet against the accused persons u/s 341/323/325/354/506/34 of IPC against the accused persons.

3. Post taking cognizance and post supplying copy to the accused, the case was transferred to this Court for trial and disposal.

The Charge:

4. At the initial stage, upon considering the Police Papers and post hearing the learned counsels for both sides, Charge under section 341/323/325/354/506/34 of IPC was framed against the accused persons. On getting acquainted with the contents thereof, they pleaded innocence and claimed to get tried.

The narrators of prosecution case / witnesses:

5. Charge of innocence necessitated examination of witnesses on behalf of the prosecution.

6. In the process, as many as **ten witnesses** were examined. The Investigating Officer could not be procured, even after exhausting all processes. Let it herein be mentioned that Dilbar Sekh was examined as PW 5 on 02.04.2024 but inadvertently he was examined against as PW 11 on 27.11.2024. It is a rule that the previous evidence has to be taken into account and that both Id. APP and Id. Defence Counsel raised no objection to the same and stated that the evidence of PW 5 recorded on 02.04.2024 have to be taken into account.

7. It now the ripe hour to introduce the witnesses, in brief, prior to moving to the stance of the accused as his defence version. The witnesses are as follows:

SERIAL NO.	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Lovely Bibi	Defacto complainant.
PW-2	Hossain Ali	Husband/Victim of the defacto complainant.
PW-3	Hachen Sekh	Brother-in-law of the defacto complainant.
PW-4	Hachna Bibi	Mother-in-law of the defacto complainant.
PW-5	Dilbar Sekh	Victim/Father-in-law of the defacto complainant.
PW-6	Arfan Sekh	Independent witness
PW-7	Achyruddin Sekh	Independent witness
PW-8	Majar Sekh	Independent witness
PW-9	Anjura Bibi	Independent witness
PW-10	Mamata Banu	Jha of the defacto complainant.

8. Exhibits for the prosecution:

Sl. No.	Exhibit Number	Description
1.	Exhibit-1	Signature of PW-1 on the written complaint.

The defence version::

9. False implication, in a concocted case, of an innocent people is the main tune of the

accused in this case, as could be deciphered by this Court from the trend of cross-examination and from the replies to the queries under section 313 of the Code of Criminal Procedure, 1973.

10. The accused, however, did not choose to adduce any defence witness or get any document or material marked as exhibit in their favour. Even during the course of examination under section 313 Cr. P.C. when they were given such an option they opted to let it go by.

11. **Streamlining the divergent issues::**

With such divergent materials in hand, it is now upon the Court to decide the list, which seems to beg decision on the following points:

12. **POINTS FOR DETERMINATION**

- Whether the accused persons are guilty of the offences u/s 341/323/325/354/506/34 of the Indian Penal Code ?
- Whether prosecution could prove its case to the desired degree to warrant conviction of the accused?

13. **Analysis of the Court:**

In order to avoid necessary repetitions, the first point is taken up for discussion to arrive at a just conclusion.

14 **DECISION WITH REASONS**

15. P.W 1 deposed that she had filed the case against Nazrul Sekh, Akkes Ali, Fulbar Sekh and Fulu Bibi and also identified the accused persons. That the incident occurred about 5/6 months ago at 4.00 P.M. to 4:30 P.M. She further deposed that there was an incident of altercation and scuffling between her, her husband and parents-in-law and the accused persons out of their family dispute. She also identified her signature in the written complaint which was written as per her instruction being marked as Exhibit-1.

16. During cross-examination, she did not aware of the contents of her written complaint. She further deposed that the disputed matter has been amicably settled in between them.

17. P.W. 2 deposed that he knows the complainant who is his wife and has filed the instant case against the accused persons and also identified the accused persons. He deposed that the incident occurred about 2 years ago at evening near their house. There was hot altercation with the accused persons.

18. During cross-examination, he deposed that he cannot say whether he was interrogated by the police.

19. P.W. 3 deposed in similar lines and deposed that she knows the complainant who has filed the instant case against Nazrul Sekh, Akkes Ali, Fulbar Sekh and Fulu Bibi and also identified the accused persons. That the incident occurred about 1 to ½ year ago at evening near their house. That there was mis-understanding between them and the accused persons and that there was only hot altercation. Further, he had fallen down on his own for which he had sustained injury.

20. During cross-examination, he deposed that he cannot say whether he was interrogated by the police.

21. P.W 4 deposed that he knows the complainant who has filed the instant case against Nazrul Sekh, Akkes Ali, Fulbar Sekh and Fulu Bibi and also identified the accused persons. That the incident occurred about 1 to ½ year ago at evening near their house. She further deposed that that there was mis-understanding between them and the accused persons and that there was only hot altercation.

22. P.W 5 deposed that he knows the complainant who has filed the instant case against Nazrul Sekh, Akkes Ali, Fulbar Sekh and Fulu Bibi and also identified the accused persons. That the incident occurred about 2 ½ year ago at evening near their house. He further deposed that there was mis-understanding between them and the accused persons and that there was only hot altercation.

23. P.W 6 deposed that he knows the complainant who has filed the instant case against Nazrul Sekh @ Hanif Ali, Akkes Ali Sekh @ Akkaes Sekh, Fulbar Sekh @ Fulbar Ali Sekh and Fulu Bibi @ Phylanu Bibi and also identified the accused persons. He further deposed that he had heard that there was an hot altercation between the complainant and the accused persons.

24. P.W 7 deposed that he knows the complainant who has filed the instant case against Nazrul Sekh @ Hanif Ali, Akkes Ali Sekh @ Akkaes Sekh, Fulbar Sekh @ Fulbar Ali Sekh and Fulu Bibi @ Phylanu Bibi and also identified the accused persons. He further deposed

that he had heard that there was an hot altercation between the complainant and the accused persons.

25. P.W 8 deposed that he knows the complainant who has filed the instant case against Nazrul Sekh @ Hanif Ali, Akkes Ali Sekh @ Akkaes Sekh, Fulbar Sekh @ Fulbar Ali Sekh and Fulu Bibi @ Phylanu Bibi and also identified the accused persons. He does not know anything. He also deposed that he was not present at the time of incident.

26. P.W 9 deposed that he knows the complainant who has filed the instant case against Nazrul Sekh, Akkes Ali, Fulbar Sekh and Fulu Bibi and also identified the accused persons. That the incident occurred about 1 and ½ years ago at evening near their house. He further deposed that there was hot altercation between the complainant and the accused persons.

27. P.W 10 deposed that he knows the complainant who has filed the instant case against Nazrul Sekh @ Hanif Ali, Akkes Ali Sekh @ Akkaes Sekh, Fulbar Sekh @ Fulbar Ali Sekh and Fulu Bibi @ Phylanu Bibi and also identified the accused persons. She further deposed that she does not know any incident.

DECISION WITH REASONS

28. Now, let me scrutinize the evidence on record to come to a definite finding as to how far the prosecution has been successful to prove the case against the accused persons beyond all shadows of reasonable doubts.

29. Analyzing the aforesaid prosecution evidence of record, the following ensues.

30. Firstly, though PW 1 had deposed that there was an hot altercation and scuffling between her, her husband and parents-in-law and the accused persons out of their family dispute.

31. Secondly PW-2 one of the victim/husband of the defacto complainant had deposed that the incident occurred about 2 years ago and there was hot altercation between them and the accused persons.

32. Thirdly, PW 3, PW-4 and PW-5 deposed that there was hot altercation and misunderstanding was there.

33. *Fourthly, the other witness did not speak of incriminating evidence against the accused persons. Further one of the victim could not be brought.*

34. *Cumulative effect of the above discussion compels this court to decipher that the prosecution has miserably failed to prove the case against accused persons beyond reasonable doubt. That they have in totality failed to set for their accusations against the accused persons. These material facts are enough to declare that the prosecution has miserably failed to prove the charge against the accused persons. Accordingly, both the points for determination are decided in negative against the prosecution for which the accused persons are entitled to an order of acquittal.*

Hence, it is,

ORDERED

*That the accused persons namely Nazrul Sekh @ Hanif Ali, Fulbar Sekh @ Fulbar Ali, Fulu Bibi @ Phulanu Bibi and Akakj Ali Sekh @ Akkaes Sekh are found “Not Guilty” for the commission of the offences **under sections 341/323/325/354/506/34** and is thus **ACQUITTED** from this case as per **section 248(1)** Code of Criminal Procedure and is set at liberty at once.*

The accused persons as well their sureties are hereby discharged from their respective bail bond liabilities.

Copy of the Judgment be sent to the District Magistrate, Cooch Behar as well as Ld. Secretary, District Legal Service Authority, Cooch Behar so as to intimate the Victim/complainant about his/her right to appeal as well as to apprise his/her that he/she can seek legal assistance if he/she so desires through District Legal Service Authority, Cooch Behar.

Note in the Trial Register and CIS.

Typed & corrected by Me:

*Addl. Chief Judicial Magistrate,
2nd Court, Dinhata,
Cooch Behar*

*Addl. Chief Judicial Magistrate,
2nd Court, Dinhata,
Cooch Behar*